

# FIRST DIVISION

[ G.R. No. 242686, July 07, 2020 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ZALDY SIOSON Y LIMON, ACCUSED-APPELLANT.**

## DECISION

**REYES, J. JR., J.:**

This is an appeal<sup>[1]</sup> from the May 16, 2018 Decision<sup>[2]</sup> of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 09204 affirming the Joint Decision<sup>[3]</sup> dated March 29, 2017 of the Regional Trial Court (RTC) of Balanga City, Bataan, Branch 92 in Criminal Case Nos. 15273-74 finding accused-appellant Zaldy Sioson y Limon (Sioson) guilty beyond reasonable doubt for violating Sections 5 and 11, Article II of Republic Act (R.A.) No. 9165 otherwise known as the "Comprehensive Dangerous Drugs Act of 2002."

### The Facts

The present case stemmed from two separate Information<sup>[4]</sup> dated October 28, 2015 charging Sioson with illegal sale and illegal possession of dangerous drugs. The prosecution alleged that on October 27, 2015, members of the police force stationed in Pilar, Bataan, in coordination with the Philippine Drug Enforcement Agency, planned a buy-bust operation against Sioson based on a tip received a week prior from a confidential asset.<sup>[5]</sup> After the buy-bust team was organized, the operatives proceeded to the area of operation in *Barangay Sta. Rosa, Pilar, Bataan* together with the confidential informant. There, at around 8:15 p.m., the team saw Sioson alight from a tricycle.<sup>[6]</sup> The designated *poseur-buyer* Police Officer 1 Juncarl G. Pataweg (PO1 Pataweg) and the asset then approached Sioson and told the latter of their intent to buy *shabu* worth P500.00. Sioson thereafter handed over to PO1 Pataweg one plastic sachet containing white crystalline substance in exchange for the marked P500.00 bill.<sup>[7]</sup> Then, as the prearranged signal, PO1 Pataweg tapped the shoulder of Sioson and thanked him.<sup>[8]</sup> Thus, PO2 Nadzmer R. Sahibul (PO2 Sahibul), who was 10 meters away from the target area, rushed to the target area and apprehended Sioson.<sup>[9]</sup> PO1 Pataweg requested Sioson to empty his pockets whereupon Sioson pulled out four other plastic sachets of *shabu*.<sup>[10]</sup> PO1 Pataweg then seized all five plastic sachets and marked them in the presence of Sioson.<sup>[11]</sup> PO2 Sahibul testified that he witnessed the marking of the seized specimen.<sup>[12]</sup> Thereafter, the buy-bust team brought Sioson to the Pilar Police Station for the conduct of the Inventory. PO1 Pataweg kept the subject evidence in his pocket from the time it was recovered from Sioson at the crime scene up to the police station.<sup>[13]</sup> PO1 Pataweg and PO2 Sahibul then conducted the inventory while PO2 De Vega took photos of the seized items as witnessed by Sioson, media representative Danny

Cumilang (Cumilang), Department of Justice (DOJ) representative Enuna Sangalang (Sangalang) and *barangay* official Rogelio Reyes (Reyes).<sup>[14]</sup> Upon securing the necessary request for Laboratory Examination, PO1 Pataweg and PO2 Sahlbul delivered the confiscated plastic sachets for testing at the Bataan Philippine National Police Crime Laboratory, Balanga City, Bataan.<sup>[15]</sup> Forensic Chemist Police Chief Inspector Vernon Rey Santiago (PCI Santiago) received the seized items from PO1 Pataweg and conducted tests thereon.<sup>[16]</sup> In her Chemistry Report No. D-418-15-Bataan,<sup>[17]</sup> PCI Santiago stated that the contents of the plastic sachets tested positive for Methamphetamine Hydrochloride or *shabu*.<sup>[18]</sup>

For his part, Sioson claimed that on October 27, 2015, while he was in Prado Siongco, Lubao, Pampanga for the wake of his aunt Edna L. Sioson, he received a text message from his friend Edgar Nuestro (Nuestro) inviting him to his house in Pilar, Bataan. At Nuestro's house, Sioson averred that six police officers suddenly barged in and physically assaulted him. He was then brought to the Pilar Municipal Hall on board a white vehicle.<sup>[19]</sup>

In a Joint Decision dated March 29, 2017, the RTC adjudged Sioson guilty as charged and sentenced him: (1) to suffer the penalty of life imprisonment and to pay a fine of P500,000.00 for violating Section 5, Article II of R.A. No. 9165; and (2) to serve a prison term of 15 years and one day as minimum to 20 years as maximum without eligibility for parole and to pay a fine of P300,000.00 for violating Section 11, Article II of R.A. No. 9165. The RTC found that the prosecution was able to prove, with the required quantum of proof, all the elements of the crime of illegal sale and illegal possession of dangerous drugs, and that the identity, integrity, and probative value of the sequestered drugs were preserved and kept intact by the evidence custodian until its presentation in court.<sup>[20]</sup> It brushed aside Sioson's defense of frame-up for being unsubstantiated and upheld the presumption of regularity in the performance of official duties.<sup>[21]</sup>

Upon appeal, the CA sustained the ruling of the RTC agreeing that Sioson's defense of frame-up and alibi crumbles in the face of proof beyond reasonable doubt of his violation of the Comprehensive Dangerous Drugs Act.<sup>[22]</sup>

Hence, this appeal.

### **The Court's Ruling**

The appeal is granted.

In order to ensure Sioson's conviction for the illegal sale of dangerous drugs, the prosecution must satisfactorily establish: (1) the identity of the buyer and the seller, the object and the consideration, and (2) the delivery of the thing sold and the payment,<sup>[23]</sup> for the charge of illegal sale of dangerous drugs; while the elements of illegal possession of dangerous drugs are: (1) the accused was in possession of an item or object identified as a prohibited drug; (2) such possession was not authorized by law; and (3) the accused freely and consciously possessed the said drug, for the illegal possession charge.<sup>[24]</sup>

Additionally, in such cases of illegal sale and illegal possession of dangerous drugs under R.A. No. 9165, it is essential that the prosecution successfully demonstrate, with moral certainty, the identity of the subject drugs, especially since the dangerous drug itself forms an integral part of the *corpus delicti* of the crime; failing to do so, renders the evidence for the State insufficient to prove the guilt of the accused, hence, warrants an acquittal.<sup>[25]</sup>

In the case at bench, the Court is not convinced that the buy-bust team adequately complied with the chain of custody rule under Section 21(1), Article II of R.A. No. 9165, as amended by R.A. No. 10640,<sup>[26]</sup> which requires:

SEC. 21. x x x. —

(1) The apprehending team having initial custody and control of the dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, immediately after seizure and confiscation, conduct a physical inventory of the seized items 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, with an elected public official and a representative of the National Prosecution Service or the media 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 conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures: Provided, finally, That noncompliance of these requirements under justifiable grounds*, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures and custody over said items. (Emphasis supplied)

In recent cases, the Court has held that the prosecution has the positive duty to demonstrate strict observance of the chain of custody rule,<sup>[27]</sup> and "[a]s such, they must have the initiative to not only acknowledge, but also justify any perceived deviations from the said procedure during the proceedings before the trial court." <sup>[28]</sup> Stated otherwise, any procedural lapses must be explained, and the justifiable ground for non-compliance must be proven as a fact by the prosecution.

Here, it cannot be denied that the apprehending officers committed a serious breach of the mandatory procedures required by law in the conduct of buy-bust operations. Corollary, reasonable doubt is cast upon the integrity of the allegedly confiscated drug specimens, and consequently, on the guilt of appellant Sioson.

Both PO1 Pataweg and PO2 Sahibul attested to the following facts: (1) the seized plastic sachets were marked at the place of arrest with only Sioson present; and (2) the inventory and photography of the confiscated items were done at the police station witnessed by representatives from the media and the DOJ, and an elected public official.