

SECOND DIVISION

[G.R. No. 250908, November 23, 2020]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ARIEL QUIÑONES Y LOVERIA, ACCUSED-APPELLANT.

DECISION

PERLAS-BERNABE, J.:

Before the Court is an ordinary appeal^[1] filed by accused-appellant Ariel Quinones y Loveria (accused-appellant) assailing the Decision^[2] dated November 29, 2018 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 10050, which affirmed the Judgment^[3] dated September 4, 2017 of the Regional Trial Court of Daet, Camarines Norte, Branch 38 (RTC) convicting accused-appellant of the crime of **Attempted Illegal Sale of Dangerous Drugs**, as defined and penalized under Section 5,^[4] in relation to Section 26,^[5] Article II of Republic Act No. (RA) 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002."

The Facts

This case stemmed from an Information^[6] filed before the RTC charging accused-appellant of Illegal Sale of Dangerous Drugs. The prosecution alleged that at around 3:40 in the afternoon of June 14, 2015, Jail Officer Niel A. Romana (JO Romana) was conducting a roll call of the inmates at the second floor of the Camarines Norte Provincial Jail when he accosted Rogelio B. Caparas (Caparas), a minor and trustee-inmate, and asked him where he was going. When Caparas answered that he was heading to the cell of inmate Frederick Cua (Cua), JO Romana bodily searched him and recovered from his pocket a small piece of paper sealed with black electrical tape. When he opened it, he saw a handwritten note,^[7] a small plastic sachet containing 0.0944 gram of white crystalline substance, and a rolled aluminum foil. JO Romana confiscated the items, reported the incident to his supervisor, and marked the items in the presence of accused-appellant. Thereafter, the seized items were inventoried and photographed in the presence of Philippine Drug Enforcement Agency Agent Enrico Barba, Barangay Officials Jose Juan Carranceja, Jr. and Richard Rafael, and Media Representative Ricky Pera. After qualitative examination at the crime laboratory where they were brought, the seized items tested positive for methamphetamine hydrochloride or *shabu*, a dangerous drug.^[8] Provincial Warden Reynaldo Pajarillo (Warden Pajarillo) of the Camarines Norte Provincial Jail corroborated JO Romana's testimony on material points.^[9]

Caparas himself testified that the note and plastic sachet of *shabu* sealed with electrical tape that JO Romana confiscated from him was given by accused-appellant, who instructed him to deliver its contents to Cua.^[10]

In defense, accused-appellant denied the charges against him, and instead, claimed

that during that time, he was at his cell located at the first floor of the provincial jail when he was summoned by Caparas to proceed to the Office of the Provincial Warden. Thereat, he saw Caparas, JO Romana, and three (3) other persons, and was informed of the accusations against him, all of which he denied. He also alleged that he refused to sign the inventory report since he was not the owner of the seized items. Finally, he averred that he never went out of his cell from 3:30 in the afternoon to 9:00 in the evening.^[11]

The RTC Ruling

In a Judgment^[12] dated September 4, 2017, the RTC found accused-appellant guilty beyond reasonable doubt of **Attempted Illegal Sale of Dangerous Drugs**, and accordingly, sentenced him to suffer the penalty of life imprisonment and to pay a fine of P500,000.00. It gave credence to the testimony of the prosecution witnesses that the *shabu* came from accused-appellant and was intended to be delivered to another inmate, Cua, on account of accused-appellant's failure to prove that the prosecution witnesses were motivated by ill motive in implicating such a serious crime against him. Further, while accused-appellant was not caught *in flagrante* delivering the plastic sachet containing *shabu*, it was established through testimonial evidence, particularly the testimony of Caparas, that the note and plastic sachet containing *shabu* came from him. Finally, finding no allegation of conspiracy between Caparas and accused-appellant, the RTC held that the case shall be judged based on their individual acts.^[13]

Aggrieved, accused-appellant appealed^[14] to the CA.

The CA Ruling

In a Decision^[15] dated November 29, 2018, the CA **affirmed** accused-appellant's conviction, finding that his bare denial cannot prevail over the positive testimony of the prosecution witnesses stating that he was the source of the *shabu* which was supposed to be delivered and/or sold to Cua. Likewise, the CA found that the prosecution was able to establish all the elements of the crime charged, and that the integrity of the seized item was preserved in light of the officers' compliance with the requirements of the chain of custody rule.^[16]

Hence, this appeal.^[17]

The Issue Before the Court

The core issue for the Court's resolution is whether or not accused-appellant is guilty beyond reasonable doubt of Attempted Illegal Sale of Dangerous Drugs.

The Court's Ruling

The appeal is meritorious.

At the outset, it must be stressed that an appeal in criminal cases opens the entire case for review, and thus, it is the duty of the reviewing tribunal to correct, cite, and appreciate errors in the appealed judgment whether they are assigned or

unassigned.^[18] "The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine record, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law."^[19]

In convicting accused-appellant of Attempted Illegal Sale of Dangerous Drugs, as defined and penalized under Section 5, in relation to Section 26, Article II of RA 9165, the courts *a quo* relied heavily on the testimony of Caparas, another inmate. The crux of Caparas' testimony was that when JO Romana frisked him, JO Romana found a note sealed with electrical tape containing *shabu*, which Caparas claimed was given to him by accused-appellant for delivery to Cua.

In order to secure the conviction of an accused charged with Attempted Illegal Sale of Dangerous Drugs, the prosecution must be able to prove: (a) the **identities of the buyer and the seller**, the object, and the consideration;^[20] and (b) the fact that the sale of the illegal drugs was attempted. A crime is attempted when the offender commences the commission of a felony directly by overt acts, and does not perform all the acts of execution, which should produce the felony, by reason of some cause or accident other than his own spontaneous desistance.^[21]

After meticulous review of the case vis-a-vis the elements of the crime for which accused-appellant was convicted, the Court finds that **reasonable doubt** exists with regard to the identities of the buyer and the seller.

Normally, the identities of the seller and the buyer are proven by the testimonies of the apprehending officers, especially in cases involving buy bust operations where the accused was caught *in flagrante delicto*.^[22] This case, however, is peculiar, in that accused-appellant was not himself found in possession of the illegal drugs subject of the attempted sale. Instead, the entire basis of the charge against him - and of his eventual conviction as well - was the testimony of Caparas, a fellow inmate in whose custody the *shabu* was actually found and who named accused-appellant as the source/seller thereof. Caparas likewise identified another inmate, Cua, as the intended recipient/buyer of the *shabu*.

However, Caparas' bare testimony ascribing criminal liability upon accused-appellant is neither trustworthy nor sufficient to convict the latter. Lest it be forgotten, it was Caparas himself who was found in possession of the illegal drugs. To Our mind, therefore, it was convenient for Caparas to have named accused-appellant as the source/seller of the illegal drugs in order to evade criminal liability, as he has evidently done. Curiously, records are bereft of showing that despite having been accosted by JO Romana in custody of the illegal drugs, Caparas had not been charged with illegal possession together with accused-appellant. Parenthetically, the RTC, as affirmed by the CA, ruled that in the absence of allegations of conspiracy between Caparas and accused-appellant, the case had to be judged on the basis of their individual acts. If such is the case, accused-appellant cannot be found guilty based on the mere statements of Caparas sans any other independent evidence indubitably pointing to him as the source/seller of the illegal drugs subject of this case. Contrary to the findings of the courts *a quo*, the testimonies of JO Romana and Warden Pajarillo did not corroborate Caparas' identification of accused-appellant as the source/seller of the said illegal drugs, containing as it did only details of the latter's arrest and the proceedings that transpired thereafter.