

THIRD DIVISION

[G.R. No. 234156, January 07, 2019]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
EMMANUEL OLIVA Y JORJIL, BERNARDO BARANGOT Y PILAIS
AND MARK ANGELO MANALASTAS Y GAPASIN, ACCUSED-
APPELLANTS.**

D E C I S I O N

PERALTA, J.:

This is an appeal from the Court of Appeals (CA) Decision^[1] dated May 31, 2017 dismissing Emmanuel Oliva y Jorjil, Bernardo Barangot y Pilais and Mark Angelo Manalastas y Gapasin's appeal, and affirming the Decision^[2] dated October 28, 2015 of the Regional Trial Court (RTC), Branch 65, Makati City, convicting appellants of Violation of Sections 5 and 11, Article II of Republic Act (R.A.) No. 9165.

The facts follow.

The Chief of Station Anti-Illegal Drugs - Special Operations Task Group (SAID-SOTG), on January 23, 2015, received a report regarding the sale of dangerous drugs by a certain "Manu" in *Barangay Cembo*, Makati City and its nearby areas. As such, a buy-bust operation was planned and after coordination with the Philippine Drug Enforcement Agency (PDEA), a buybust team was formed wherein Police Officer 3 (PO3) Luisito Marcelo was designated as the poseur-buyer and given a P500.00 bill as marked money, and PO1 Darwin Catabay as back-up. Thereafter, the buy-bust team proceeded to the exact location of "Manu" after it was confirmed by the confidential informant.

When they arrived at the target area, the confidential informant pointed to appellant Oliva as "Manu," the seller of dangerous drugs; thus, PO3 Marcelo and the confidential informant approached the said appellant. PO3 Marcelo was introduced by the confidential informant to appellant Oliva as a buyer who wanted to buy P500.00 worth of *shabu*. PO3 Marcelo handed appellant Oliva the marked money after the latter demanded payment. Appellant Oliva then showed PO3 Marcelo four (4) transparent plastic sachets with white crystalline substance and asked the latter to choose one. Meanwhile, two (2) other persons, appellants Barangot and Manalastas were also at the target area to buy *shabu*. Appellants Barangot and Manalastas, and PO3 Marcelo each took one sachet from the four sachets that appellant Oliva showed.

Upon receiving the dangerous drug, PO3 Marcelo immediately scratched his chin, which is the pre-arranged signal to his back-up that the transaction has been completed. Subsequently, PO3 Marcelo grabbed appellants Oliva and Barangot and, thereafter, PO1 Catabay appeared and arrested appellant Manalastas.

The police officers conducted a body search on appellant Oliva and it yielded another sachet containing white crystalline substance, the marked money and two (2) more pieces of P500.00 bills. Eventually, appellants Oliva, Barangot and Manalastas were arrested and brought to the *barangay* hall where an inventory was conducted and on the basis thereof, an inventory report was prepared. The confiscated items were then marked and photographed, and a request for laboratory examination was accomplished and the seized items were submitted to the PNP Crime Laboratory. The substance found inside the sachets were all tested positive for the presence of methamphetamine hydrochloride, a dangerous drug.

Thus, an Information for violation of Section 5, Article II of R.A. No. 9165 was filed against appellant Oliva, that reads as follows:

On the 24th day of January 2015, in the City of Makati, Philippines, accused, not being authorized by law and without the corresponding license and prescription, did then and there willfully, unlawfully and feloniously sell, deliver and distribute zero point six (0.06) gram of white crystalline substance containing methamphetamine hydrochloride (shabu), a dangerous drug, contained in one (1) small transparent plastic sachet, in consideration of Php500.00.

CONTRARY TO LAW.^[3]

Also, in three informations, appellants Oliva, Barangot and Manalastas were separately charged with violation of Section 11 of the said law, thus:

Crim. Case No. 15-196
(against appellant Oliva)

On the 24th day of January 2015, in the City of Makati, the Philippines, accused, not being authorized by law to possess or otherwise use any dangerous drug and without the corresponding prescription, did then and there willfully, unlawfully and feloniously have in his possession zero point ten (0.10) gram of white crystalline substance containing methamphetamine hydrochloride (shabu), a dangerous drug.

CONTRARY TO LAW.^[4]

Crim. Case No. 15-197
(against appellant Barangot)

On the 24th day of January 2015, in the City of Makati, the Philippines, accused, not being authorized by law to possess or otherwise use any dangerous drug and without the corresponding prescription, did then and there willfully, unlawfully and feloniously have in his possession zero point five (0.05) gram of white crystalline substance containing methamphetamine hydrochloride (shabu), a dangerous drug.

CONTRARY TO LAW.^[5]

Crim. Case No. 15-198
(against appellant Manalastas)

On the 24th day of January 2015, in the City of Makati, the Philippines, accused, not being authorized by law to possess or otherwise use any dangerous drug and without the corresponding prescription, did then and there willfully, unlawfully and feloniously have in his possession zero point three (0.03) gram of white crystalline substance containing methamphetamine hydrochloride (shabu), a dangerous drug.

CONTRARY TO LAW.^[6]

Upon arraignment, appellants, with the assistance of counsel, entered pleas of "not guilty" on all charges.

All appellants used denial as a defense.

According to appellant Oliva, on January 21, 2015, around 10:30 in the evening, he was in front of a neighbor's house when several armed men, riding in motorcycles, stopped by and invited him to go with them. When he refused to go, one of the armed men pointed a gun at him, handcuffed him, and forcibly took him to the SAID-SOTG office where he was detained.

On the other hand, appellant Barangot maintained that on January 22, 2015, around 2:30 in the morning, he was having a drinking spree with one Mel and Nonoy when several men barged inside the house and arrested them. They were then brought to the SAID-SOTG office where they were detained, and subsequently, freed after Mel and Noy paid the police officers for their release.

Appellant Manalastas also denied committing the offense charged against him and claimed that on the same date, he was inside his room sleeping, when he was suddenly roused by loud noises causing him to go outside and check the commotion. He saw armed men inside his house and, thereafter, the latter took him, his mother, a certain Bong, Ronald, Abby and two (2) boarders to the SAID-SOTG office where they were all detained.

The RTC found appellants guilty beyond reasonable doubt of the offenses charged against them and were sentenced as follows:

WHEREFORE, in view of the foregoing, judgment is hereby rendered as follows:

1. In Criminal Case No. 15-195, the court finds the accused, Emmanuel Oliva y Jorjil, GUILTY beyond reasonable doubt of the crime of violation of Section 5, Article II, R.A. No. 9165 and sentences each of them to suffer the penalty of life imprisonment and to pay a fine of Five Hundred Thousand Pesos (P500,000.00).

2. In Criminal Case Nos. 15-196 to 15-198, the court finds the accused, Emmanuel Oliva y Jorjil, Bernardo Barangot y Pilais and Mark Angelo Manalastas y Gapasin, GUILTY beyond reasonable doubt of the crime of violation of Section 11, Article II, RA. No. 9165 and sentences each of

them to suffer the penalty of imprisonment of twelve (12) years and one (1) day, as minimum, to fourteen (14) years and eight (8) months, as maximum, and to pay a fine of Three Hundred Thousand Pesos (P300,000.00).

The period of detention of the accused should be given full credit.

Let the dangerous drugs subject matter of these cases be disposed of in the manner provided by law.

The Branch Clerk of Court is directed to transmit the plastic sachets containing shabu subject matter of these cases to the PDEA for said agency's appropriate disposition.

SO ORDERED.^[7]

The RTC ruled that the prosecution was able to prove beyond reasonable doubt the guilt of the appellants.

The CA affirmed the Decision of the RTC *in toto*, thus:

WHEREFORE, the appeal is hereby DENIED.

IT IS SO ORDERED.^[8]

The CA ruled that the prosecution was able to establish the key elements for illegal possession and sale of dangerous drugs, and that the bare denials of the appellants cannot prevail over the positive testimonies of the police officers. It also held that the failure of the prosecution to show that the police officers conducted the required physical inventory and take the photograph of the objects confiscated does not *ipso facto* render inadmissible in evidence the items seized.

Hence, the present appeal.

Appellants assigned the following errors:

I.

THE TRIAL COURT GRAVELY ERRED IN GIVING CREDENCE TO THE PROSECUTION WITNESSES' INCREDULOUS TESTIMONIES.

II.

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANTS GUILTY OF THE CRIMES CHARGED DESPITE THE POLICE OFFICERS' NON-COMPLIANCE WITH SECTION 21 OF REPUBLIC ACT NO. 9165 AND ITS IMPLEMENTING RULES AND REGULATIONS.

III.

THE TRIAL COURT GRAVELY ERRED IN ADMITTING THE ALLEGEDLY SEIZED DRUGS DESPITE THE POLICE OFFICERS' FLAWED MANNER IN

THE CONDUCT OF INVENTORY AND MARKING THE SAME.

IV.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANTS DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH EVERY LINK IN THE CHAIN OF CUSTODY OF THE ALLEGEDLY SEIZED ITEMS.^[9]

Appellants argue that it is difficult to believe the testimonies of the police officers because it is impossible for appellants to engage in drug transactions in the middle of the street, under broad daylight, and in the presence of strangers. They also claim that the arresting officers failed to immediately conduct a physical inventory of the seized items and photograph the same in the presence of the accused, their representative or counsel, a representative of the media and the Department of Justice (DOJ), and any elected public official who are required to sign the copies of the inventory. Thus, according to appellants, the prosecution failed to establish every link in the chain of custody of the seized items.

The appeal is meritorious.

Under Section 5, Article II of R.A. No. 9165 or illegal sale of prohibited drugs, in order to be convicted of the said violation, the following must concur:

(1) the identity of the buyer and the seller, the object of the sale and its consideration; and (2) the delivery of the thing sold and the payment therefor.^[10]

In illegal sale of dangerous drugs, it is necessary that the sale transaction actually happened and that "the [procured] object is properly presented as evidence in court and is shown to be the same drugs seized from the accused."^[11]

Also, under Section 11, Article II of R.A. No. 9165 or illegal possession of dangerous drugs the following must be proven before an accused can be convicted:

[1] the accused was in possession of dangerous drugs; [2] such possession was not authorized by law; and [3] the accused was freely and consciously aware of being in possession of dangerous drugs.^[12]

In both cases involving illegal sale and illegal possession, the illicit drugs confiscated from the accused comprise the *corpus delicti* of the charges.^[13] In *People v. Gatlabayan*,^[14] the Court held that it is of paramount importance that the identity of the dangerous drug be established beyond reasonable doubt; and that it must be proven with certitude that the substance bought during the buy-bust operation is exactly the same substance offered in evidence before the court. In fine, the illegal drug must be produced before the court as exhibit and that which was exhibited must be the very same substance recovered from the suspect.^[15] Thus, the chain of custody carries out this purpose "as it ensures that unnecessary doubts concerning the identity of the evidence are removed."^[16]

To ensure an unbroken chain of custody, Section 21(1) of R.A. No. 9165 specifies: