

FIRST DIVISION

[G.R. No. 232645, February 18, 2019]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V.
ANTONIO BALDERRAMA Y DE LEON, ACCUSED-APPELLANT.**

D E C I S I O N

DEL CASTILLO, J.:

This is an appeal^[1] from the April 21, 2017 Decision^[2] of the Court of Appeals (CA) in CA-G.R. CR HC No. 08051 which affirmed the December 22, 2015 Judgment^[3] of the Regional Trial Court (RTC) of Taguig City, Branch 267, in Criminal Case No. 17248-D-TG.

The Facts

Accused-appellant Antonio Balderrama y De Leon (accused-appellant) was charged with violation of Sections 5 and 11 of Article II of Republic Act (RA) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, in two sets of Information which are successively reproduced as follows:

Criminal Case No. 17248-D-TG (Violation of Section 5, Article II, RA 9165)

That, on or about the 13th day of August 2010, in the City of Taguig, Philippines and within the jurisdiction of [the] Honorable Court, the abovenamed accused, without being authorized by law to sell or otherwise dispose any dangerous drug, did then and there willfully, unlawfully and knowingly sell, deliver, distribute and give away to a poseur buyer, zero point zero sixty (0.060) gram of white crystalline substance, for and in consideration of the amount of Five Hundred Pesos (Php500.00), which substance was found positive to the test for Methamphetamine Hydrochloride, commonly known as "*shabu*," a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW.^[4]

Criminal Case No. 17249-D-TG (Violation of Section 11, Article II, RA 9165)

That, on or about the 13th day of August 2010, in the City of Taguig, Philippines and within the jurisdiction of [the] Honorable Court, the above named accused, without being authorized by law to possess any dangerous drug, did then and there, willfully, unlawfully and knowingly have in [his] possession and control, zero point zero sixty (0.060) gram of white crystalline substance, which was found positive to the test for

Methamphetamine Hydrochloride, commonly known as "*shabu*," a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW.^[5]

Arraignment pushed through and accused-appellant pleaded not guilty.^[6] Pretrial was conducted after which trial ensued.^[7]

Version of the Prosecution

The evidence for the prosecution included the testimonies of Police Officer 3 Antonio Reyes (PO3 Reyes)^[8] and Police Officer 3 Jowel Briones (PO3 Briones).^[9] Their testimonies established that, on August 13, 2010, they received information that accused-appellant was openly selling illegal drugs at his house in *Barangay* Calzada-Tipas, Taguig City. A buy-bust team was organized in which PO3 Reyes was the designated poseur-buyer. Bills amounting to P1,500.00^[10] were marked "PC" by Police Chief Inspector (PCI) Porfirio Calagan.

At 10:30 p.m., the team proceeded to accused-appellant's house on board a private vehicle. When the team reached Estacio Street, PO3 Reyes and the informant alighted from the vehicle and proceeded on foot. When they met accused-appellant, the informant introduced PO3 Reyes as a cousin wanting to buy *shabu*. Accused-appellant asked how much they wanted to buy and PO3 Reyes replied he wanted P500-worth of *shabu*. Accused-appellant offered to sell two sachets of *shabu* but PO3 Reyes said he would buy only one sachet. As accused-appellant handed one sachet, PO3 Reyes gave the marked money in exchange. When the transaction was completed, PO3 Reyes scratched his head which was the predetermined signal for the team to arrest accused-appellant. PO3 Briones handcuffed accused-appellant while PO3 Reyes frisked him further and found the marked money and another sachet of *shabu*. PO3 Reyes marked the two sachets as ADR-1-130810 and ADR-2-130810.^[11] Accused-appellant was brought to the police station. Three *barangay* officials – Napoleon Sulit, Virgilio Maglipon, and Francisco Estacio – were invited to witness the taking of inventory.

The white substance was subjected to a laboratory examination and yielded a positive result for the presence of methamphetamine hydrochloride.^[12]

Version of the Defense

Accused-appellant testified in open court and denied the allegation.^[13] He claimed, on August 13, 2010 at 10:00 p.m., while lying in bed inside his house at 13 Estacio St., Ibayo, Calzada-Tipas, Taguig City, three men in civilian attire barged in, held him by the wrist, and searched his house for 10-15 minutes without a warrant. Thereafter, the men ordered him to board a maroon vehicle and brought him to the police station where he was detained and photographed with two sachets of *shabu* and P500-bill.

Ruling of the Regional Trial Court

In its December 22, 2015 Judgment, the trial court found accused appellant guilty of violating Section 5 of RA 9165, the dispositive portion of which reads:

WHEREFORE, based on the foregoing dissertation of the court, the court finds the accused ANTONIO BALDERRAMA Y DE LEON who was charged in Criminal Case No. 17248-D-TG for Violation of Section 5 of RA 9165 GUILTY beyond reasonable doubt and Judgment is hereby pronounced that he should suffer the penalty of LIFE IMPRISONMENT and to pay FINE in the amount of FIVE HUNDRED THOUSAND PESOS (P500,000.00).

With regard to the charge in Criminal Case No. 17249-D-TG for Violation of Section 11 of RA 9165, accused ANTONIO BALDERRAMA y DE LEON is hereby ACQUITTED of the same on the basis of reasonable doubt.

SO ORDERED.^[14]

Accused-appellant filed his appeal assailing his conviction for sale of illegal drugs in Criminal Case No. 17248-D-TG.^[15] In his Brief,^[16] he asserted that the police officers did not comply with the chain-of-custody rule; the testimonies of the police officers were replete with inconsistencies; PO3 Reyes had P1,500.00 but only bought a sachet for P500.00; and the buy-bust operation was a sham.

The Office of the Solicitor General (OSG), representing the People, filed a Brief^[17] and argued that the evidence for the prosecution supported the conviction; the procedural requirements were complied with by the police officers; the seized items were marked at the scene of the crime; and the testimonies of the police officers who did not have any ill motive to falsely testify against accused-appellant must prevail over the self-serving and uncorroborated claim of the latter.

Ruling of the Court of Appeals

The appellate court affirmed the ruling of the trial court.^[18] It held that the prosecution was able to prove beyond reasonable doubt accused-appellant's violation of Section 5 of RA 9165 in Criminal Case No. 17248-DTG.^[19]

Hence, the present appeal.^[20]

After being required to file supplemental briefs if they so desired,^[21] the parties instead submitted Manifestations^[22] in which they stated that they were adopting their Briefs^[23] submitted earlier before the appellate court and were dispensing with the filing of Supplemental Briefs.^[24]

Our Ruling

There is merit in the appeal.

The failure of the police officers to observe the procedure laid down in Section 21^[25] of RA 9165 and Section 21^[26] of the Implementing Rules and Regulations (IRR) of the same law compels this Court to reverse the assailed rulings and acquit accused-appellant.

Evaluated pursuant to the abovementioned provisions, the noncompliance with the custody rule by the apprehending officers is readily apparent considering that the witnesses required by law during the taking of inventory and photographs were not present. No representatives from the media and Department of Justice were present during the conduct of the inventory.