

FIRST DIVISION

[G.R. No. 237802, March 18, 2019]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MACMAC BANGCOLA Y MAKI, DEFENDANT-APPELLANT.**

DECISION

GESMUNDO, J.:

This is an appeal seeking to reverse and set aside the January 3, 2018 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 09030. The CA affirmed the January 26, 2017 Consolidated Decision^[2] of the Regional Trial Court of Marikina City, Branch 193 (RTC) in Criminal Case Nos. 2014-4356-D-MK and 2014-4357-D-MK, finding Macmac Bangcolay Maki (*appellant*) guilty beyond reasonable doubt of the crimes of 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 Amended Information filed before the RTC, appellant and one Salim Lala Pimba (*Pimba*) were charged with the crime of illegal sale of dangerous drugs, in violation of Sec. 5, Art. II of R.A. No. 9165. The accusatory portion of the amended information states:

CRIMINAL CASE NO. 2014-4356 D-MK

That on or about the 20th day of June 2014, in the City of Marikina, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating with one another, without being authorized by law, did then and there willfully, unlawfully and knowingly sell and deliver to PO3 Deogracias Basang, a poseur buyer, one (1) heat[-]sealed small transparent plastic sachet containing 0.20 gram[s] of white crystalline substance which gave positive result to the tests for Methamphetamine Hydrochloride, a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW.^[3]

In a separate information, appellant was also charged with the crime of illegal possession of dangerous drugs, in violation of Sec. 11, Art. II of R.A. No. 9165. The accusatory portion of the information states:

CRIMINAL CASE NO. 2014-4357-D-MK

That on or about the 20th day of June 2014, in the City of Marikina,

Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law to possess or otherwise use any dangerous drugs, did then and there willfully, unlawfully and knowingly have in his possession, direct custody and control of thirteen (13) heat[-]sealed transparent plastic sachets containing methamphetamine hydrochloride, a dangerous drug in violation of the above-cited law.

CONTRARY TO LAW.^[4]

Upon his arraignment on August 7, 2014,^[5] appellant pleaded not guilty to the crimes charged while his co-accused, Pimba, remained at large. Thereafter, trial ensued.

The prosecution presented Senior Police Officer I Deogracias Basang (*SPO1 Basang*). The testimony of Police Chief Inspector Margarita M. Libres (*PCI Libres*), the forensic chemist, was dispensed with after both parties stipulated on the existence of the request for laboratory examination, the receipt of the drug specimens, and the physical science report she prepared.^[6]

Version of the Prosecution

On June 20, 2014, a confidential informant reported to the Station Anti-Illegal Drugs, Office of the Marikina City Police Station, that appellant was engaged in illegal drug activities at Barangay Tumana, Marikina City. A buy-bust team was then formed consisting of Police Inspector Jerry Flores (*P/Insp. Flores*) as the team leader, SPO1 Basang as the poseur-buyer, and several other police officers as back-up operatives. SPO1 Basang was given two (2) pieces of marked Five Hundred Peso (P500.00) bills to be used as buy-bust money. The pre-arranged signal was the lighting of a cigarette upon consummation of the sale.^[7]

On even date, at about 10:30 in the evening, the buy-bust team and the confidential informant proceeded to the target area. While the rest of the buy-bust team hid and positioned themselves, SPO1 Basang and the confidential informant entered an alley where they saw two (2) men. The confidential informant then introduced SPO1 Basang to appellant while Pimba introduced himself as "Salim." Pimba asked SPO1 Basang how much he would purchase to which he replied "P1,000.00." Pimba told appellant "*Mac, ikaw na ang magbigay*" while handing him a red body bag. SPO1 Basang gave the two marked P500.00 bills to appellant. Appellant then brought out a brown-striped pouch and took out therefrom one small plastic sachet, which he handed to SPO1 Basang and said "*Pare, ito yung halagang isang libo.*" At that moment, SPO1 Basang lit a cigarette, which prompted the buy-bust team to rush towards the crime scene. SPO1 Basang introduced himself as a police officer, grabbed appellant's right arm, and arrested appellant. Pimba, however, managed to escape. The red body bag, the brown-striped pouch, the buy-bust money, and other cash in his possession, amounting to P1,990.00, were confiscated from appellant. Thirteen (13) more small plastic sachets containing white crystalline substance were found in the possession of appellant. SPO1 Basang marked the plastic sachet purchased from appellant with "MB-BUYBUST 6/20/14" in the latter's presence.^[8]

Thereafter, P/Insp. Flores decided to continue the inventory and marking of the other pieces of evidence at the Barangay Hall of Tumana because it was dark at the alley where appellant was arrested and appellant's relatives were already causing a commotion at the time.^[9]

City Councilor Ronnie Acuña (*Acuña*) and Cesar Barquilla (*Barquilla*) of Remate tabloid newspaper were present during the inventory, marking, and photograph-taking of evidence at the barangay hall. The thirteen (13) plastic sachets were marked as "MB-1 6/20/14" to "MB-13 6/20/14." The Inventory of Evidence^[10] of the seized items was signed by Acuña and Barquilla while appellant refused to sign the same. The Chain of Custody Form^[11] was then prepared by SPO1 Basang.^[12]

Appellant was thereafter brought to the police station. A request for laboratory examination by the PNP Crime Laboratory was prepared by P/Insp. Flores to determine the presence of any form of dangerous drugs in the seized items. SPO1 Basang turned over the pieces of evidence to PCI Libres for the purpose of forensic examination.^[13]

In her Report^[14] dated June 21, 2014, PCI Libres confirmed that the small plastic sachet marked "MB-BUYBUST 6/20/14," which weighed 0.20 gram, was positive for methamphetamine hydrochloride or *shabu*. The thirteen (13) small plastic sachets additionally found in the possession of appellant and marked as "MB-1 6/20/14" to "MB-13 6/20/14", with a total weight of 34.12 grams, were also found positive for methamphetamine hydrochloride.

Version of the Defense

The defense presented appellant as its sole witness. He testified that, around 10 or 11 o'clock in the evening of June 20, 2014, he was sitting alone at the end of the bridge of Barangay Tumana, Marikina City. Suddenly, two police officers approached him and verified his identity. Appellant was then ordered to board a vehicle and was taken to a vacant lot where several drug paraphernalia were shown to him. Afterwards, appellant was brought to the barangay hall and the police station. The police officers told him that he would be imprisoned despite not having committed any offense. On cross-examination, appellant denied that he was with Pimba at the time of his arrest and that there were items recovered from him.^[15]

The RTC Ruling

In its January 26, 2017 Consolidated Decision, the RTC found appellant guilty beyond reasonable doubt of illegal sale and possession of dangerous drugs. In Criminal Case No. 2014-4356-D-MK, appellant was sentenced to suffer the penalty of life imprisonment and ordered to pay a fine of P500,000.00. In Criminal Case No. 2014-4357-D-MK, appellant was sentenced to suffer the penalty of imprisonment of twelve (12) years and one (1) day to twenty (20) years, and ordered to pay a fine of P300,000.00.^[16]

The RTC ruled that there was satisfactory compliance with the requirements of the law on the proper chain of custody of dangerous drugs. Although the confiscated drugs were not inventoried, marked, and photographed at the place where appellant

was arrested, the prosecution gave a valid justification for the same, such that the place was not well-lit and the relatives of appellant were starting to cause a commotion at the time. The RTC held that the marking of the confiscated drugs at the barangay hall did not affect the integrity and evidentiary value of the seized items. The RTC also underscored that appellant's defense of denial was unsubstantiated by clear and convincing evidence, hence, deserved no credence at all.^[17]

Aggrieved, appellant appealed to the CA.

The CA Ruling

In its January 3, 2018 Decision, the CA affirmed appellant's conviction. It ruled that the prosecution was able to establish all the elements of illegal sale and possession of dangerous drugs. It gave full credence to SPO1 Basang's positive identification of appellant and his narration of the buy-bust operation, more so because it was supported by physical evidence on record, such as PCI Libres' forensic examination report. It ruled that there was no break in the chain of custody of the confiscated drugs, notwithstanding the absence of a representative from the Department of Justice (DOJ) at the time the evidence were being inventoried, marked, and photographed. It held that such absence did not affect the preservation of the integrity and evidentiary value of the seized items, as in the case of *People v. Agulay*.^[18] It noted, however, that the prosecution's failure to indicate the quantity of the confiscated drugs in the information for illegal possession of dangerous drugs entailed the imposition of the minimum penalty corresponding to possession of *shabu*, which was essentially the same as the penalty imposed by the RTC.

Appellant then appealed before the Court.

In an April 16, 2018 Resolution,^[19] the Court required the parties to submit their respective supplemental briefs, if they so desired. In its June 26, 2018 Manifestation and Motion,^[20] the Office of the Solicitor General (OSG) manifested that it would no longer file a supplemental brief to avoid a repetition of arguments considering that the guilt of appellant has been exhaustively discussed in its appellee's brief filed before the CA. In its June 27, 2018 Manifestation in lieu of Supplemental Brief,^[21] appellant averred that he would no longer file a supplemental brief considering that he had thoroughly discussed the assigned errors in his appellant's brief.^[22]

Issue

WHETHER THE GUILT OF APPELLANT FOR THE CRIMES CHARGED HAS BEEN PROVEN BEYOND REASONABLE DOUBT.

In his Appellant's Brief^[23] before the CA, appellant reiterates that the element of consideration was lacking since the P500.00 bills were not marked or subjected to ultraviolet power-dusting; that the lack of signature on the sachets allegedly confiscated from appellant cast reasonable doubt on the source and handling of the evidence; that the chain of custody rule was not complied with due to the absence of a DOJ representative during the inventory of evidence; that there was lack of sufficient evidence to prove that Acuña was indeed an incumbent councilor and Barquilla was a mediaman from Remate tabloid newspaper; and that the chain of

custody was broken because of the prosecution's failure to identify the investigator who prepared the requests for laboratory examination of the sachets and drug testing of appellant.^[24]

In its Appellee's Brief^[25] before the CA, the OSG urges the court to affirm the challenged decision of the RTC. The OSG countered that, notwithstanding the lack of marking and dusting of the P500.00 bills and the lack of signature on the sachets of the confiscated drugs from appellant, SPO1 Basang's categorical testimony - that the bills were used as the buy-bust money and that the sachets presented in court were the same ones confiscated from appellant - is sufficient. It also insists that the chain of custody rule was complied with albeit admitting that such compliance was not done strictly and perfectly in accordance with the requirements of the law. It opined that the inventory, marking, and photograph-taking of evidence at the barangay hall was justified given the poor lighting conditions at the place of arrest and because appellant's relatives were already causing a commotion.^[26]

The Court's Ruling

The appeal is meritorious.

In every criminal prosecution, the Constitution affords the accused presumption of innocence until his or her guilt for the crime charged is proven beyond reasonable doubt.^[27] The prosecution bears the burden of overcoming this presumption and proving the liability of the accused by presenting evidence which shows that all the elements of the crime charged are present.^[28]

To sustain a conviction for the offense of illegal sale of dangerous drugs, the necessary elements are: (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.^[29] It is essential that a transaction or sale be proved to have actually taken place coupled with the presentation in court of evidence of the *corpus delicti*.^[30] The *corpus delicti* in cases involving dangerous drugs is the presentation of the dangerous drug itself and its offer as evidence.

On the other hand, to successfully prosecute a case of illegal possession of dangerous drugs, the following elements must be established: (1) the accused is in possession of an item or object which is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the drug.^[31]

Apart from showing the presence of the above-cited elements, it is of utmost importance to likewise establish with moral certainty the identity of the confiscated drug.^[32] To remove any doubt or uncertainty on the identity and integrity of the seized drug, it is imperative to show that the substance illegally possessed and sold by the accused is the same substance offered and identified in court.^[33] 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.^[34]

Chain of custody means the duly recorded, authorized movements, and custody of the seized drugs at each state, from the moment of confiscation to the receipt in the