

THIRD DIVISION

[G.R. No. 222192, March 13, 2019]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
LAHMODIN AMERIL Y ABDUL @ "AMOR/MHONG", ACCUSED-
APPELLANT.**

DECISION

LEONEN, J.:

At the core of every prosecution for the sale of illegal drugs is the constitutional mandate of the State to adduce proof on the identity and integrity of the seized illegal drugs. The wisdom behind this burden is to ensure that the items seized were neither tampered nor contaminated. Failure to overcome such burden calls for the acquittal of the accused.^[1]

This resolves an Appeal from the Court of Appeals April 20, 2015 Decision^[2] in CA-G.R. CR-HC No. 05502, which convicted Lahmodin Ameril y Abdul @ "Amor/Mhong" of violation of Article II, Section 5 of Republic Act No. 9165, or the Comprehensive Dangerous Drugs Act of 2002, for the illegal sale of dangerous drugs.

In an Information,^[3] dated April 24, 2006 Ameril was charged with violation of Article II, Section 5 of Republic Act No. 9165. The accusatory portion read:

That on or about **April 17, 2006**, in the City of Manila, Philippines, the said accused, not being authorized by law to sell, trade, deliver or give away to another any dangerous drug, did then and there willfully, unlawfully and knowingly sell or offer for sale three (3) transparent plastic sachets with the following markings and net weights, to wit:

1. "LAA" containing four point four one one two (4.4112) grams;
2. "LAA-2" containing four point four three five zero (4.4350) grams;
and
3. "LAA" containing three point nine seven two seven (3.9727) grams

of white crystalline substance containing Methylamphetamine hydrochloride, known as "SHABU", which is a dangerous drug[.]

Contrary to law.^[4] (Emphasis in the original)

On arraignment, Ameril pleaded not guilty. Trial on the merits then ensued.^[5]

The prosecution presented as its witness Special Investigator Rolan Fernandez (Special Investigator Fernandez) of the National Bureau of Investigation.^[6]

Special Investigator Fernandez testified that on April 10, 2006, a confidential informant came to the National Bureau of Investigation Reaction Arrest Division.^[7] The informant told the Division Chief, Atty. Ruel Lasala, Jr. (Chief Lasala), that one (1) alias "Amor," later identified as Ameril, was selling prohibited drugs in Metro Manila.^[8] Chief Lasala then instructed Special Investigator Fernandez to confirm the information.^[9]

The informant called Ameril and introduced Special Investigator Fernandez as a prospective buyer.^[10] Special Investigator Fernandez proposed to Ameril that he wanted to buy P30,000 worth of methylamphetamine hydrochloride (shabu), to which the latter agreed.^[11]

The informant went to Ameril after the conversation to arrange the sale with Special Investigator Fernandez.^[12] Later that day, the informant called Special Investigator Fernandez to tell him that Ameril was ready to deliver the shabu.^[13]

In the morning of April 17, 2006, the informant confirmed to Special Investigator Fernandez that Ameril would deliver the shabu at Solanie Hotel, Leon Guinto, Malate, Manila, at around 2:00 p.m. that day.^[14] Special Investigator Fernandez then prepared the boodle money consisting of two (2) P500 bills placed on top of cut bond papers.^[15] Special Investigator Fernandez placed his initials on the bills,^[16] but forgot where he actually marked them.^[17]

Special Investigator Fernandez also prepared a Pre-Operation Report/Coordination Sheet^[18] and sent it to both the Philippine Drug Enforcement Agency and the local police.^[19]

As agreed, Special Investigator Fernandez, who was designated as the poseur buyer,^[20] would ring the cellphone of Special Investigator Elson Saul (Special Investigator Saul) to signify that the sale had been consummated.^[21]

The buy-bust operation team, composed of Special Investigator Fernandez, Special Investigator Saul, and five (5) other officers, went to Solanie Hotel at around 2:30 p.m. Special Investigator Fernandez and the informant sat by one (1) of the umbrella tables in front of the hotel, while the rest positioned themselves along Leon Guinto, Malate, Manila.^[22]

Few minutes later, Ameril arrived at the hotel, where the informant introduced him to Special Investigator Fernandez. After a few minutes of conversation, Ameril asked Special Investigator Fernandez if he had the money, to which Special Investigator Fernandez replied that Ameril should first show the shabu. Ameril showed him a black paper bag, inside of which were three (3) small transparent plastic sachets containing white crystalline substance. Convinced that the sachets contained shabu, Special Investigator Fernandez gave the boodle money to Ameril.^[23]

As soon as Ameril gave the paper bag to Special Investigator Fernandez, the latter made the pre-arranged signal. Special Investigator Fernandez introduced himself as a National Bureau of Investigation agent, while the other team members rushed to

the area. Special Investigator Saul recovered the boodle money from Ameril.^[24]

After the arrest, SI Fernandez marked the three (3) plastic sachets with Ameril's initials: (1) "LLA-1"; (2) "LLA-2"; and (3) "LLA-3." The marking was made in the presence of Kagawad Analiza E. Gloria (Kagawad Gloria) and Norman Arcega (Arcega)^[25] of media outlet Police Files Tonite.^[26] Special Investigator Fernandez also took photos and inventory of the seized items. Both Gloria and Arcega signed the inventory.^[27]

Special Investigator Fernandez submitted the seized items to the Forensic Chemistry Division of the National Bureau of Investigation. Police Senior Inspector Felicisima Francisco (PSI Francisco) conducted a qualitative examination on the seized items, which tested positive for shabu.^[28]

Ameril denied the allegations against him. He claimed that at around 11:00 a.m. on April 17, 2006, he was in his house preparing to go to an agency in Pedro Gil in Manila to meet his friend, Moy Abdullah (Abdullah).^[29] Abdullah told Ameril, who was applying for a job in Jeddah, Saudi Arabia,^[30] to bring his old and new passports, NBI clearance, and driver's license to get his visa.^[31]

When Ameril arrived at the Pedro Gil Station of the Light Rail Transit, he asked someone how to reach Aljaber Manpower International Agency. The man pointed him to a nearby agency.^[32]

The man asked Ameril where he was from, to which he said he was from Maguindanao Street. The man told his companion that Ameril was from Maguindanao Street, and that they could ask him questions. They then told Ameril that they would bring him to their office. Ameril told them that somebody was waiting for him at the agency, but the two (2) men insisted on bringing him.^[33]

At the National Bureau of Investigation office, Ameril saw Special Investigator Fernandez, who showed him photos of persons and asked if he knew them.^[34] Ameril replied that he did not, as he had been in the area for just four (4) months.^[35] Pedro Gil Station Fernandez warned Ameril that he would be charged with obstruction of justice if he failed to identify the persons in the pictures.^[36]

Special Investigator Fernandez then told the persons who brought Ameril to take him into custody and confiscate his belongings.^[37]

Ameril was brought the next day to the Manila City Hall for inquest. He only learned on arraignment that he was charged with illegal sale of drugs.^[38]

In its January 25, 2012 Decision,^[39] the Regional Trial Court convicted Ameril. It ruled that the prosecution had successfully established his guilt^[40] by presenting sufficient evidence that showed the elements of illegal sale of dangerous drugs.^[41]

The Regional Trial Court noted that although the Information stated that the three (3) plastic sachets seized from Ameril were marked: (1) "LAA" containing 4.4112

grams; (2) "LAA-2" containing 4.4350 grams; and (3) "LAA" containing 3.9727 grams,^[42] the evidence presented showed that the plastic sachets seized from Ameril were actually marked LLA-1, LLA-2, and LLA.^[43]

Despite this inconsistency, the Regional Trial Court still convicted Ameril for the second plastic sachet containing 4.4350-grams of shabu on the ground that Ameril was informed that he was accused of selling it. The Regional Trial Court ruled that the prosecution proved this accusation.^[44]

Aggrieved, Ameril appealed^[45] before the Court of Appeals. In his Appellant's Brief,^[46] Ameril argued that the prosecution failed to prove the *corpus delicti*, as the documents and testimonies revealed flaws in the prosecution's handling of illegal drugs allegedly seized from him.^[47] He emphasized that the details of where the seized items' markings took place were not on record.^[48]

Ameril further argued that the inconsistencies in the markings of the seized illegal drugs "compromised the integrity of the seized items."^[49]

In its April 20, 2015 Decision,^[50] the Court of Appeals affirmed Ameril's conviction.^[51] It ruled that the chain of custody of the seized illegal drugs was not in any way broken. The raiding team conducted the buy-bust operation in an orderly manner.^[52] It emphasized that under the rules on evidence, law enforcers are presumed to have carried out their duties regularly under the law.^[53]

Even if there was a variance in the marking of the seized illegal drugs, the Court of Appeals ruled that Ameril was still substantially apprised of the crime charged against him.^[54]

Undaunted, Ameril, through counsel, filed a Notice of Appeal before the Court of Appeals.^[55]

In its May 29, 2015 Resolution,^[56] the Court of Appeals gave due course to Ameril's Notice of Appeal.

On March 2, 2016, this Court notified accused-appellant Lahmodin A. Ameril and the People of the Philippines, through the Office of the Solicitor General, to file their respective supplemental briefs.^[57]

Both the accused-appellant^[58] and the Office of the Solicitor General^[59] manifested that they would no longer file supplemental briefs.

The sole issue for this Court's resolution is whether or not the Court of Appeals correctly upheld the conviction of accused-appellant for violation of Article II, Section 5 of Republic Act No. 9165, or the Comprehensive Dangerous Drugs Act of 2002.

This Court rules in the negative.

I

In sustaining a conviction for illegal sale of dangerous drugs, "the following elements must first be established: (1) proof that the transaction or sale took place[;] and (2) the presentation in court of the *corpus delicti* or the illicit drug as evidence."^[60]

The illegal drug itself constitutes the *corpus delicti* of the offense. Its existence must be proved beyond reasonable doubt. "Proof beyond reasonable doubt demands that unwavering exactitude be observed in establishing the *corpus delicti*. The chain of custody rule performs this function as it ensures that unnecessary doubts concerning the identity of the evidence are removed."^[61]

Section 21 of Republic Act No. 9165, as amended by Republic Act No. 10640, outlines the procedure that police officers must follow in handling seized illegal drugs:

SEC. 21. *Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment.* — The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(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 persons 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 in the original)

In *Mallillin v. People*,^[62] this Court emphasized the importance of the chain of custody:

Indeed, the likelihood of tampering, loss or mistake with respect to an exhibit is greatest when the exhibit is small and is one that has physical characteristics fungible in nature and similar in form to substances