

SECOND DIVISION

[G.R. No. 240664, March 11, 2019]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V.
JONATHAN MAYLON Y ALVERO ALIAS "JUN PUKE" AND ARNEL
ESTRADA Y GLORIAN, ACCUSED-APPELLANTS.**

DECISION

PERLAS-BERNABE, J.:

Assailed in this ordinary appeal^[1] is the Decision^[2] dated February 23, 2018 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 09141, which affirmed the Decision^[3] dated September 16, 2016 of the Regional Trial Court of Marikina City, Branch 263 (RTC) in Criminal Case No. 2014-4405-07-D-MK, finding: (a) accused-appellants Jonathan Maylon y Alvero alias "Jun Puke" (Maylon) and Arnel Estrada y Glorian (Estrada; collectively, accused-appellants) guilty beyond Reasonable doubt of violating Section 11, Article II of Republic Act No. (RA) 9165,^[4] otherwise known as the "Comprehensive Dangerous Drugs Act of 2002"; and (b) Maylon guilty beyond reasonable doubt of violating Section 5 of the same Act.

The Facts

This case stemmed from three (3) separate Informations^[5] filed before the RTC accusing Maylon of Illegal Sale and Possession of Dangerous Drugs and Estrada of Illegal Possession of Dangerous Drugs. The prosecution alleged that at around 1:25 in the afternoon of August 10, 2014, operatives of the Station Anti-Illegal Drugs Special Operation Task Group of Marikina City (SAID-SOTG) conducted a buy-bust operation against accused-appellants, during which Maylon allegedly sold one (1) plastic sachet containing 0.05 gram of white crystalline substance to PO3 Junar O. Olveda (PO3 Olveda). PO3 Olveda likewise saw Estrada receive a sachet of *shabu* from Maylon. Thereafter, police operatives arrested accused-appellants and were able to recover: (a) seven (7) plastic sachets containing a total of 0.28 gram of white crystalline substance from Maylon; and (b) another plastic sachet containing 0.05 gram of white crystalline substance from Estrada.^[6] They then immediately marked the seized items at the place of arrest. Afterwards, they brought accused-appellants and the seized items to the police station, where they conducted an inventory in the presence of Barangay Kagawad Teresita Publiko (Kagawad Publiko), Councilor Ronnie Acuña (Councilor Acuña), and media representative Cesar Barquilla (media representative Barquilla). Consequently, the seized items were brought to the crime laboratory, where, after examination, the contents thereof yielded positive for the presence of methamphetamine hydrochloride, or *shabu*.^[7]

In their defense, accused-appellants claimed that at around 6:00 in the morning of August 10, 2014, Estrada was at a store near his house to buy coffee when police officers called and asked him to board the police mobile. When he inquired as to his violation/s, the police officers ignored him. He then called out to his mother but the

police officers made him lie face down and forced him to board the vehicle. They then proceeded to the house of Maylon, where the latter, who was then sleeping, was arrested. Consequently, they were brought to the nearest barangay, where a plastic sachet was shown to them. Afterwards, they were brought to the police station for the filing of criminal charges.^[8]

In a Decision^[9] dated September 16, 2016, the RTC found accused-appellants guilty of the crimes respectively charged against them, and accordingly, sentenced them as follows: (a) for Illegal Sale of Dangerous Drugs against Maylon, life imprisonment and to pay a fine of P500,000.00; (b) for Illegal Possession of Dangerous Drugs against Maylon, imprisonment of twelve (12) years and one (1) day to twenty (20) years; and (c) for Illegal Possession of Dangerous Drugs against Estrada, imprisonment of twelve (12) years and one (1) day to twenty (20) years and to pay a fine of P300,000.00. It found that the prosecution was able to establish accused-appellants' guilt for the crimes charged. It likewise gave credence to the positive testimony of the police operatives which prevails over accused-appellants' self-serving and uncorroborated defense of denial.^[10] Aggrieved, accused-appellants appealed^[11] to the CA.

In a Decision^[12] dated February 23, 2018, the CA affirmed with modification the RTC ruling, and accordingly, sentenced: (a) *accused-appellants to each 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 each pay a fine of P300,000.00 for Illegal Possession of Dangerous Drugs; and (b) Maylon to suffer the penalty of life imprisonment and to pay a fine of P500,000.00 for Illegal Sale of Dangerous Drugs.* It found that the prosecution was able to establish all the elements of the crimes charged, as well as the unbroken chain of custody in the handling of the seized items.^[13]

Hence, this appeal seeking that accused-appellants' respective convictions be overturned.

The Court's Ruling

The appeal is without merit.

The elements of Illegal Sale of Dangerous Drugs under Section 5, Article II of RA 9165 are: (a) the identity of the buyer and the seller] the object, and the consideration; and (b) the delivery of the thing sold and the payment. On the other hand, the elements of Illegal Possession of Dangerous Drugs under Section 11, Article II of RA 9165 are: (a) the accused was in possession of an item or object identified as a prohibited drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug.^[14] Here, the courts *a quo* correctly found Maylon guilty of the crime of Illegal Sale of Dangerous Drugs, as the records clearly show that he was caught *in flagrante delicto* selling *shabu* to the poseur-buyer, PO3 Olveda, during a legitimate buy-bust operation conducted by the SAID-SOTG. Similarly, the courts *a quo* correctly ruled that both Maylon and Estrada committed the crime of Illegal Possession of Dangerous Drugs as they freely and consciously possessed plastic sachets containing *shabu* when they were arrested. Since there is no indication that the trial court and the CA overlooked, misunderstood, or misapplied the surrounding facts and circumstances of the case, the Court finds no reason to deviate from their factual findings. In this regard, it

should be noted that the trial court was in the best position to assess and determine the credibility of the witnesses presented by both parties.^[15]

Further, the Court notes that the buy-bust team had sufficiently complied with the chain of custody rule under Section 21, Article II of RA 9165.

In cases for Illegal Sale and/or Possession of Dangerous Drugs under RA 9165, it is essential that the identity of the dangerous drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime.^[16] Failing to prove the integrity of the *corpus delicti* renders the evidence for the State insufficient to prove the guilt of the accused beyond reasonable doubt and hence, warrants an acquittal.^[17]

To establish the identity of the dangerous drug with moral certainty, the prosecution must be able to account for each link of the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime.^[18] As part of the chain of custody procedure, the law requires, *inter alia*, that the marking, physical inventory, and photography of the seized items be conducted immediately after seizure and confiscation of the same.^[19] In this regard, case law recognizes that "marking upon immediate confiscation contemplates even marking at the nearest police station or office of the apprehending team."^[20] Hence, the failure to immediately mark the confiscated items at the place of arrest neither renders them inadmissible in evidence nor impairs the integrity of the seized drugs, as the conduct of marking at the nearest police station or office of the apprehending team is sufficient compliance with the rules on chain of custody.^[21]

The law further requires that the said inventory and photography be done in the presence of the accused or the person from whom the items were seized, or his representative or counsel, as well as certain required witnesses, namely: (a) if **prior** to the amendment of RA 9165 by RA 10640, "a representative from the media and the Department of Justice (DOJ), and any elected public official";^[22] or (b) if **after** the amendment of RA 9165 by RA 10640, "[a]n elected public official and a representative of the National Prosecution Service or the media."^[23] The law requires the presence of these witnesses primarily "to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence."^[24]

In this case, it is glaring from the records that after accused-appellants were arrested, the buy-bust team immediately took custody of the seized plastic sachets and marked them at the place of arrest. Thereafter, they went to the nearest police station where the inventory^[25] and photography^[26] of the seized plastic sachets were conducted in the presence of two (2) elected public officials (Kagawad Publiko and Councilor Acuña) and a media representative (media representative Barquilla). While such inventory and photography were not done at the place of arrest but at the police station, the same was warranted under the circumstances. As testified by PO3 Olveda, they had to move to the nearest police station because the relatives of accused-appellants started to cause a commotion, viz.:

[Atty. Dela Cruz, Jr.]: Before you left the area, there was no danger in your life?