

SECOND DIVISION

[G.R. No. 237975, June 19, 2019]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JIMMY
FULINARA Y FABELANIA,^[1] ACCUSED-APPELLANT.**

DECISION

CAGUIOA, J:

This is an Appeal^[2] under Section 13(c), Rule 124 of the Rules of Court from the Decision^[3] dated November 29, 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08722, which affirmed the Joint Decision^[5] dated October 10, 2016 rendered by the Regional Trial Court, Branch 270, Valenzuela City (RTC) in Criminal Case Nos. 302-V-16 and 303-V-16 finding herein accused-appellant Jimmy Fulinara y Fabelania (Jimmy) guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of Republic Act No. (RA) 9165,^[5] otherwise known as the *Comprehensive Dangerous Drugs Act of 2002*, as amended.

The Facts

Jimmy was charged with violation of Sections 5 and 11, Article II of RA 9165, in two separate Informations, which read as follows:

Criminal Case No. 302-V-16 (Illegal Sale of Dangerous Drugs)

That on or about March 4, 2016 in No. 3065 Manggahan St., Karuhatan, Valenzuela City and within the jurisdiction of this Honorable Court, the above-named accused, without any authority of law, for and in consideration of two hundred pesos (Php 200.00), consisting of (2) pcs. of One Hundred [Peso] bill (100.00) with serial numbers LS950956 and RA163447, respectively, marked as (JC-6) and (JC-7) did then and there willfully, unlawfully and feloniously sell to PO2 JULIUS R. CONGSON, who posed as buyer, a zero point zero six (0.06) gram of Methamphetamine Hydrochloride (Shabu) marked as A(JC-1) [with] date and signature, knowing the same to be dangerous drugs.

CONTRARY TO LAW.^[6]

Criminal Case No. 303-V-16 [Illegal Possession of Dangerous Drugs]

That on or about March 4, 2016 in Valenzuela City and within the jurisdiction of this Honorable Court, the above-named accused, without

any authority of law, did then and there willfully, unlawfully and

feloniously have in his possession and control one (1) heat-sealed transparent plastic sachet containing zero point zero six (0.06) gram of white crystalline substance verified as [M]ethamphetamine Hydrochloride marked as (JC-2) with date and signature, knowing the same to be dangerous drugs.

CONTRARY TO LAW.^[7]

Upon arraignment, Jimmy pleaded not guilty to both charges.^[8]

Version of the Prosecution

The version of the prosecution, as summarized by the CA, is as follows:

On March 4, 2016, at around 3:00 p.m., PO2 Julius A. Congson ("PO2 Julius") and PO3 Socobos ("PO3 Socobos") were at the office of the Anti-Illegal Drugs, Special Operation Task Group ("SAID-SOTG"), Valenzuela City Police Station when their regular confidential informant ("RCI") arrived and informed them about the illegal drug activities of a certain alias "Boyet" in Manggahan Street, Karuhatan, Valenzuela. Boyet was later identified as Jimmy.

Upon informing their Unit Chief, PCI Ruba, about the information, they planned the buy-bust operation. PO2 Julius, duly coordinated with Philippine Drug Enforcement Agency ("PDEA") and prepared a Coordination Form and a Pre-Operation Report. PO2 Julius was then assigned as the poseur-buyer since he was just transferred from another battalion, making his identity more unknown to the target.

When the team arrived at the place of Jimmy, he was identified by the RCI. While at the gate of the house of Jimmy, the RCI proceeded to call for Jimmy. Jimmy answered the call and PO2 Julius was told by the RCI that he was the target.

The RCI then [told] Jimmy that the poseur-buyer, PO2 Julius, would like to buy shabu worth Php 200.00. He used two (2) one hundred (100) peso bills, duly marked with PO2 Julius' initials. After giving the marked money to Jimmy, the latter placed the said money in his left pocket. Thereafter, Jimmy took out a black coin purse from his right side pocket and pulled out one (1) plastic sachet containing shabu, which was handed over to PO2 Julius.

After receiving the plastic sachet, PO2 Julius made the pre-arranged signal for arrest by lifting his cap and held the hand of Jimmy. The other operatives later handcuffed Jimmy. PO2 Julius proceeded to frisk Jimmy and was able to recover from the latter's right pocket the black coin purse, containing another plastic sachet of suspected shabu and two (2) aluminum foil strips. PO2 Julius also recovered from Jimmy the marked money.

As people around the closely built houses were starting to gather and cause a commotion, the buy[-]bust team was instructed by their lead

operative to continue the inventory of the confiscated items at PCP-9. PO2 Julius testified that he had the sachet of shabu subject of sale in his right pocket while he was holding the black coin purse containing the other sachet of suspected shabu.

In the police station, inventory was conducted in the presence of Kagawad Rommel Mercado ("Kagawad Rommel"). The Department of Justice ("DOJ") Representative and Media Representative were also called to witness the inventory, but their numbers were busy. PO2 Julius duly marked the sachet of suspected shabu from his pocket as JC-1, the sachet of suspected shabu he recovered from the black coin purse as JC-2, the aluminum foils as JC-3 and JCV-5 and the coin purse itself as JC-4. PO2 Julius put all the evidence in a brown envelope and sealed it. Subsequently, PO2 Julius turned over the pieces of evidence to the investigator-on-case, [who], in turn, prepared the other pieces of evidence.

Meanwhile, PO3 Fortunato Candido ("PO3 Fortunato") prepared the following documents: Memorandum Request for the Conduct of Inventory, Request for Examination, Philippine National Police ("PNP") Arrest and Booking Sheet and the mug shot of Jimmy.^[9]

Version of the Defense

On the other hand, the defense's version, as summarized by the CA, is as follows:

Jimmy denied the allegations against him. He testified that on March 4, 2016, he was walking towards the pharmacy to buy Salbutamol since his son had an asthma attack. Jimmy noticed that an Innova car was following him. Suddenly, two (2) men alighted and slammed him to the wall. When Jimmy asked them if they were police officers, one of the men took out a gun and pointed the same at his stomach. Jimmy was brought inside the car and [the policemen] started to question him about a certain Sugar. Jimmy replied that he [does] not know [Sugar] because many people eat at his "lugawan".

One of the officers demanded Php 10,000.00 if he could not point to them a certain Sugar. Jimmy was brought to Total Gasoline Station in front of SM Valenzuela and boarded in another vehicle.

Jimmy only had Php 170.00 in his pocket when he was arrested. He would use the said amount to buy Salbutamol. The sachets of shabu recovered from Jimmy were not his. Jimmy saw the said sachets for the first time when he was brought to Block 9.

On the other hand, Rosalinda Lague ("Rosalinda") testified that she is the live-in partner of Jimmy. It was not true that Jimmy was involved in selling drugs. On March 4, 2016, Rosalinda instructed Jimmy to buy Salbutamol because their son was experiencing an asthma attack. Rosalinda wondered why it took Jimmy so long to buy the medicine. Rosalinda learned about the arrest of Jimmy through a niece. At the

precinct, Rosalinda told the police officers that Jimmy was just tending to his "lugawan" and had never been involved in selling drugs.^[10]

Ruling of the RTC

In the assailed Joint Decision^[11] dated October 10, 2016, the RTC ruled that all the elements of Illegal Sale of Dangerous Drugs were established.^[12] Similarly, all the elements of Illegal Possession of Dangerous Drugs were proven by the prosecution.^[13] It further ruled that the defense of Jimmy that the evidence against him was merely planted after he was not able to produce the money that PO3 Julius R. Congson (PO3 Congson) demanded from him is without merit.^[14] The defenses of frame-up and extortion interposed by an accused are usually viewed with disfavor as they can easily be concocted and are common and standard defense ploys in most prosecution of violation of the Dangerous Drugs Act.^[15] It also held that the testimony of Jimmy's wife is self-serving.^[16]

The RTC further ruled that the fact that the marking of the recovered drugs was only done at the PCP-9 office and not immediately after their confiscation does not in any way taint their weight as evidence against Jimmy.^[17] It held that the prosecution substantially complied with the requirements under RA 9165 and sufficiently established the crucial links in the chain of custody. Thus, the integrity and evidentiary value of the seized shabu remained unimpaired.^[18]

The dispositive portion of the RTC Decision reads:

WHEREFORE, premises considered, judgment Is hereby rendered as follows, to wit:

In Criminal Case No. 302-V-16 finding accused JIMMY FULINARA y FABELENIA GUILTY beyond reasonable doubt of violation of Section 5, Article II of RA 9165 and, this Court sentences him to suffer the penalty of life imprisonment and a FINE of P500,000.00.

In Criminal Case No. 303-V-16, finding accused JIMMY FULINARA y FABELENIA GUILTY beyond reasonable doubt of violation of Section 11, Article II of RA 9165 and, this Court sentences him to suffer imprisonment of 12 years and One (1) day to Twenty (20) years and a FINE of P300,000.00.

Pursuant to Article 29 of the Revised Penal Code, as amended, [his] preventive imprisonment shall be credited in full to his favor.

The subject sachets of shabu are hereby ordered confiscated and forfeited in favor of the government to be dealt with in accordance with law.

SO ORDERED.^[19]

Aggrieved, Jimmy appealed to the CA.

Ruling of the CA

In the Decision^[20] dated November 29, 2017, the CA affirmed Jimmy's conviction. The dispositive portion of the Decision reads:

WHEREFORE, the appeal is **DENIED**. The RTC Joint Decision dated October 10, 2016 is **AFFIRMED** *in toto*.

SO ORDERED.^[21]

The CA ruled that all the elements of Illegal Sale of Dangerous Drugs and Illegal Possession of Dangerous Drugs were proven by the prosecution.^[22] It further ruled that the defenses of denial and frame-up, like alibi, are considered weak defenses and have been invariably viewed by the courts with disfavor since they can just easily be concocted but are difficult to prove.^[23] Lastly, it ruled that the prosecution was able to account for every link in the chain of custody of the plastic sachets of *shabu* from the time they were seized by the police officers from Jimmy up to the time that the same were turned over to the RTC, thereby establishing the *corpus delicti* and preserving the integrity and evidentiary value of the evidence.^[24]

Hence, the instant appeal.

Issue

Whether Jimmy's guilt for violation of Sections 5 and 11 of RA 9165 was proven beyond reasonable doubt.

The Court's Ruling

The appeal is meritorious. The accused is accordingly acquitted.

In cases involving dangerous drugs, the confiscated drug constitutes the very *corpus delicti* of the offense^[25] and the fact of its existence is vital to sustain a judgment of conviction.^[26] It is essential, therefore, that the identity and integrity of the seized drug be established with moral certainty.^[27] Thus, in order to obviate any unnecessary doubt on its identity, the prosecution has to show an unbroken chain of custody over the same and account for each link in the chain of custody from the moment the drug is seized up to its presentation in court as evidence of the crime.^[28]

In this regard, Section 21,^[29] Article II of RA 9165, as amended by RA 10640, the applicable law at the time of the commission of the alleged crimes, outlines the procedure which the police officers must strictly follow to preserve the integrity of the confiscated drugs and/or paraphernalia used as evidence. The provision requires that: (1) the seized items be inventoried and photographed **immediately after seizure or confiscation**; and (2) the physical inventory and photographing must be done **in the presence of (a) the accused or his/her representative or counsel, (b) an elected public official, (c) a representative from the**