

FIRST DIVISION

[G.R. No. 229680, June 06, 2019]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MICHAEL GOYENA Y ABRAHAM, ACCUSED-APPELLANT.**

D E C I S I O N

DEL CASTILLO, J.:

Assailed in this appeal is the January 15, 2016 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07151, which affirmed the November 3, 2014 Judgment^[2] of the Regional Trial Court (RTC), Branch 4, Legazpi City, finding Michael Goyena y Abraham (appellant) guilty beyond reasonable doubt of the illegal sale of dangerous drugs under Section 5, Article II of Republic Act (RA) No. 9165, or the Comprehensive Dangerous Drugs Act of 2002.

The Antecedent Facts

Appellant was charged with the illegal sale of dangerous drugs under Section 5, Article II of RA 9165 in an Information^[3] dated November 29, 2012 which reads:

That on the 28th day of November, 2012, in the City of Legazpi, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, knowingly, unlawfully and feloniously sell and deliver to a PDEA poseur[-]buyer one (1) medium[-]size[d,] heat-sealed transparent plastic sachet containing Methamphetamine Hydrochloride[,], popularly known as Shabu, a dangerous drug, weighing 0.301 gram, in consideration of Five Hundred Pesos (P500.00), without authority of law.

CONTRARY TO LAW.

During his arraignment on December 20, 2012, appellant entered a plea of not guilty.^[4] Trial thereafter ensued.

Version of the Prosecution

The prosecution's version of the incidents is, as follows:

On November 28, 2012, at around 10:00 a.m., the Philippine Drug Enforcement Agency (PDEA) Special Enforcement Team in Camp General Simeon Ola, Legazpi City received information from a confidential informant (CI) that appellant and his sister, Cyramil Goyena (Cyramil), were engaged in the sale of dangerous drugs in Cabangan, Legazpi City.^[5] Upon further verification, it was confirmed that Cyramil was indeed included in the PDEA's list of persons suspected of selling dangerous

drugs in Albay.^[6]

In the presence of PDEA Agents Enrico Barba and Jonathan Ivan Revilla (Agent Revilla), the CI called Cyramil to set up the purchase of P3,500.00-worth of *shabu* for a buy-bust operation.^[7] Cyramil agreed and informed the CI that it was appellant who would meet him for this purpose as she was indisposed.^[8]

The PDEA thereafter coordinated with the Legazpi City Police Intelligence Unit for the conduct of a buy-bust operation against appellant and Cyramil. During the pre-operational briefing, a buy-bust team was formed with Agent Revilla as poseur-buyer, Police Officer 2 Jose Caspe (PO2 Caspe) as back-up and arresting officer, and the other team members as perimeter security.^[9]

At around 2:00 p.m., the buy-bust team proceeded to the target area where Agent Revilla and the CI posed as passengers waiting for a ride along the road in front of a dilapidated building; the rest of the team positioned themselves strategically around the area.^[10]

Not long after, appellant approached Agent Revilla and the CI. After introductions were made, appellant asked Agent Revilla if he was indeed buying P3,500.00-worth of *shabu*, and the latter replied in the affirmative. Appellant then handed Agent Revilla one medium-sized, heat-sealed transparent plastic sachet containing white crystalline substance suspected as *shabu*. Agent Revilla, in return, gave appellant the P500.00-marked money and the boodle money. Once the exchange was completed, Agent Revilla turned his baseball cap, the pre-arranged signal that the transaction had been consummated.^[11]

Appellant tried to resist when PO2 Caspe placed him under arrest but he was eventually subdued with the help of the other team members.^[12] Agent Revilla then marked the seized plastic sachet with his initials, "JIR-11/28/12," while still at the scene.^[13] But, due to a brewing commotion, the buy-bust team returned to the police station together with appellant.^[14]

At the police station, PO2 Caspe conducted a body search on the person of appellant, which yielded a black pouch containing the marked money, a Nokia 3310 cellular phone, a lighter and a .22 caliber bullet. PO2 Caspe marked the seized items with his initials, "JBC" and the date of seizure, "11/28/12," and prepared the Certificate of Inventory.^[15] The incidents in the PDEA office were all duly documented by photographs.^[16] The inventory-taking of the seized items was witnessed by the appellant, by *Barangay* Captain Santos Perez, by *Barangay Kagawad* Richard Diaz, by media representative Darlan Barcelon and by a Department of Justice representative Jesus Arsenio Aragon.^[17]

The buy-bust team thereafter proceeded to the PNP Regional Crime Laboratory Office V in Legazpi City where Agent Revilla, who had retained custody over the seized plastic sachet from the time of confiscation,^[18] personally submitted the same, together with the Request for Laboratory Examination,^[19] to P/SI Wilfredo Pabustan, Jr. (P/SI Pabustan), the forensic chemist, for quantitative and qualitative examination.^[20] Per Chemistry Report No. D-173-2012,^[21] the subject specimen

tested positive for methamphetamine hydrochloride, more commonly known as *shabu*.

Version of the Defense

Appellant *denied* the allegations against him. He testified that:

On November 28, 2012[,], at around 3:30 in the afternoon, [appellant] was playing "cara y cruz" at an old building in Cabangan, Legazpi City while waiting for his sibling[,], Cyramil. He momentarily left his group to relieve himself. While heading back to the game, about ten (10) men suddenly accosted him. When he asked why he was being arrested, the men ordered him just to follow them. [Appellant] called for help from the barangay captain and his "cara y cruz" playmates but to no avail.

The men then handcuffed him and led him away. At this point, he felt something being inserted into his pocket. One of them, who turned out to be [A]gent Revilla, then retrieved a black pouch from [his] pocket and[,], in turn[,], brought out therefrom a five hundred (P500.00)-peso bill and a plastic sachet which contained a substance similar to "tawas." [Appellant] was surprised since the only thing he had in his pocket then was his coin purse.

He again cried for help because he felt that the men were planting evidence against him. Many people were then starting to arrive at the scene, such that [A]gent Revilla and his companions made [him] board a black vehicle and thereafter brought him to the Legazpi City Police Station where a man named "Casper" presented the items seized from him. On the arrival of the barangay captain, a kagawad, a representative from the Department of Justice, and a photographer, he was frisked which search yielded his coin purse. His photo was taken and [he was] subsequently subjected to investigation. [Appellant] denied the accusation against him, saying he was merely arrested for illegal gambling, playing "cara y cruz."^[22]

Ruling of the Regional Trial Court

In its Judgment of November 3, 2014, the RTC found appellant guilty beyond reasonable doubt of violating Section 5, Article II of RA 9165. It held that the prosecution succeeded in establishing the elements of the illegal sale of dangerous drugs, viz.:

The consummation of the aforesaid sale transaction of illegal drugs was made in the afternoon of November 28, 2012. In the buy-bust operation, the accused, as conspirator of [his] sister Cyramil, was the one who delivered the illegal drug which turned out to be "shabu", subject matter of the aforesaid sale transaction to poseur-buyer Agent Revilla, facilitated by the CI. Accused also received the payment from Agent Revilla.^[23]

The RTC noted that Agent Revilla had positively identified appellant as the person who sold to him the subject *shabu* in the buy-bust operation on November 28, 2012. The RTC also found the positive testimony of Agent Revilla to be candid,

straightforward and credible.^[24]

Accordingly, the RTC sentenced appellant to suffer the penalty of life imprisonment and to pay a fine of P1,000,000.00.^[25] Against this judgment, appellant appealed to the CA.^[26]

Ruling of the Court of Appeals

The CA affirmed the RTC's Judgment *in toto*.^[27]

Like the RTC, the CA found that all the elements of the illegal sale of dangerous drugs were satisfactorily established by the prosecution,^[28] viz.:

In the instant case, [appellant's] identity as the culprit cannot be doubted, having been caught in *flagrante delicto* for selling an illegal drug. He was positively identified as the person who sold to [A]gent Revilla, the poseur-buyer, a heat-sealed transparent plastic sachet containing a white crystalline substance during the buy-bust operation. This positive identification prevails as [appellant] could only offer an uncorroborated and weak defense of denial. Against the positive testimonies of the prosecution witnesses, [appellant's] plain denial of the offense charged, unsubstantiated by any credible and convincing evidence, must simply fail.^[29]

The CA rejected appellant's contention that his warrantless arrest was illegal, as the prosecution was able to prove that appellant was apprehended after a legitimate buy-bust operation.^[30] "Hence, having been caught in *flagrante delicto*, the police officers were not only authorized but were even duty-bound to arrest him even without a warrant."^[31]

Likewise, the CA held that the law enforcers in this case sufficiently complied with the chain of custody requirement over the seized *shabu*.^[32] It explained that:

At any rate, the prosecution had sufficiently shown the law enforcers' unbroken chain of custody over the subject specimen, from the time of [appellant's] arrest up to the submission of the specimen to P/SI Pabustan, Jr. Agent Revilla, the poseur-buyer, marked the seized item in front of [appellant] and thereafter continued the inventory immediately upon arrival at the Police Station in the presence of two (2) barangay officials, [a] media representative, [a] DOJ representative and other members of the buy-bust team. The arresting officers then delivered the seized item to the PNP Crime Laboratory for examination on the same day. Then, on the stand, [A]gent Revilla identified the subject specimen bearing the marking "JIR-11/28/12" as the same item retrieved from [appellant] during the buy-bust sale held on 28 November 2012.^[33]

Aggrieved, appellant filed the present appeal.

The Issues

Appellant raises the following issues for the Court's resolution: