

THIRD DIVISION

[G.R. No. 229053, July 17, 2019]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. JORDAN
CASACLANG DELA CRUZ, ACCUSED-APPELLANT.**

D E C I S I O N

LEONEN, J.:

Whenever there is an unjustified noncompliance with the chain of custody requirements, the prosecution cannot invoke the presumption of regularity in the performance of official duty to conveniently disregard such lapse. Noncompliance obliterates proof of guilt beyond reasonable doubt, warranting an accused's acquittal. Thus, the constitutional right to presumption of innocence prevails.

This resolves an Appeal^[1] assailing the Court of Appeals' October 5, 2016 Decision^[2] in CA-G.R. CR-H.C. No. 07660. The Court of Appeals upheld the Regional Trial Court's July 20, 2015 Decision^[3] in Criminal Case Nos. L-9497 and L-9498, finding Jordan Casaclang Dela Cruz (Dela Cruz) guilty beyond reasonable doubt for violating Article II, Sections 5 and 11 of Republic Act No. 9165, or the Comprehensive Dangerous Drugs Act of 2002.

On July 23, 2012, two (2) Informations were filed before the Regional Trial Court, charging Dela Cruz for violation of Republic Act No. 9165, Article II, Sections 5 and 11, for the illegal sale and illegal possession of dangerous drugs, respectively.^[4] The Informations read:

Criminal Case No. L-9497
For Violation of Article II, Section 11

"That on or about July 10, 2012 in the afternoon at Artacho St., Poblacion, Lingayen, Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused, did, then and there, willfully and unlawfully have in his possession, control and custody two (2) plastic sachets of dried Marijuana leaves, a dangerous drug, with a total weight of 2.8 grams, without any necessary permit/license or authority to possess the same.

CONTRARY TO LAW."

Criminal Case No. L-9498
For Violation of Article II, Section 5

"That on or about July 10, 2012 at Artacho St., Poblacion, Lingayen, Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused, did, then and there, willfully and unlawfully, sell two (2) plastic sachets of dried Marijuana leaves with a total weight of

2.8 grams, to PO1 Denver Y. Santillan, an undercover policeman who acted as a poseur-buyer in a buy bust operation conducted against him, which were tested and yielded positive to be that of marijuana, a dangerous drug, without any authority to sell the same.

CONTRARY TO LAW."^[5] (Citations omitted)

On arraignment, Dela Cruz pleaded not guilty to the crimes charged.^[6] The parties stipulated on Dela Cruz's identity, and that there is a pending theft case against him. Trial then ensued.^[7]

The prosecution presented five (5) witnesses: (1) Police Officer 1 Denver Santillan (PO1 Santillan); (2) Police Senior Inspector Myrna C. Malojo-Todeño (Senior Inspector Malojo-Todeño); (3) Senior Police Officer 1 Edgar Verceles (SPO1 Verceles); (4) PO2 Elmer Manuel (PO2 Manuel); and (5) PO3 Pedro M. Vinluan (PO3 Vinluan).^[8]

According to the prosecution, at around 2:25 p.m. on July 10, 2012, PO1 Jethiel F. Vidal (PO1 Vidal) phoned the Philippine Drug Enforcement Agency Regional Office in San Fernando City, La Union. They discussed the buy-bust operation that the Municipal Anti-Illegal Drugs Special Operations Task Group of the Lingayen Police Station in Pangasinan had planned to carry out to entrap Dela Cruz, a 20-year-old high school student suspected of selling marijuana.^[9]

That same day, a team of four (4) led by Police Senior Inspector Elpidio Cruz, with PO1 Vidal, PO1 Valerio, and PO1 Santillan—the designated poseur-buyer—conducted the buy-bust operation. PO1 Santillan marked three (3) P50.00 bills with serial numbers ZY089061, AF260002, and RP990356, respectively, with the initials, "DYS1," "DYS2," and "DYS3."^[10]

Later, at around 3:05 p.m., the team proceeded to the Memorial Colleges along Artacho Street in Lingayen. PO1 Santillan waited for Dela Cruz on the western side of Alviar Street, while his companions positioned themselves on the eastern side.^[11]

At around 3:20 p.m., PO1 Santillan saw Dela Cruz come out of the Pangasinan National High School and walk toward him. He recognized him from the week-long surveillance he had earlier conducted. Dela Cruz, who supposedly knew PO1 Santillan from the confidential informant's description, approached him and asked, "*Sika man? (Are you the one?)*" to which the police officer answered, "*On siak may ibabaga to may katungtung mo (Yes, I am the one referred to by your contact.)*" After telling Dela Cruz that he had the money, PO1 Santillan handed the marked bills. In exchange, Dela Cruz took out and gave him two (2) plastic sachets of suspected marijuana.^[12]

PO1 Santillan placed the sachets in the right front pocket of his pants. He then removed his ball cap, the pre-arranged signal that the sale had been consummated, after which PO1 Valerio and PO1 Vidal rushed to the scene. PO1 Santillan then grabbed Dela Cruz, introduced himself as a police officer, and arrested him. As he retrieved the marked money from Dela Cruz's left pocket, PO1 Santillan also found two (2) other heat-sealed, transparent, plastic sachets containing suspected marijuana.^[13]

PO1 Santillan wrote "DYS4" and "DYS4-A" on each of the two (2) plastic sachets that Dela Cruz had sold him, and "DYS5" and "DYS5-A" on each of the two (2) other plastic sachets recovered from the body search.^[14]

The police officers then brought Dela Cruz to the police station. PO3 Vinluan prepared the Request for Forensic Laboratory Examination, Request for Drug Test, and the Confiscation Receipt of the seized items.^[15]

PO1 Santillan testified that he possessed the confiscated items from the time he took them from Dela Cruz until he eventually turned them over to the Philippine National Police Crime Laboratory for testing.^[16]

After conducting a laboratory examination, Senior Inspector Malojo-Todeño confirmed in her July 10, 2012 Chemistry Report No. D-073-12 that the confiscated items were indeed marijuana. The four (4) specimens, which she marked "A1," "A2," "A3," and "A4," respectively weighed 1.3 grams, 1.5 grams, 1.4 grams, and 1.4 grams. She testified that she turned them over to the evidence custodian, PO2 Manuel, who corroborated this on trial.^[17]

In his defense, Dela Cruz disclaimed any knowledge of the illegal sale and possession of drugs. He testified that on July 10, 2012, he attended his 7:30 a.m. to 11:45 a.m. classes at the Pangasinan National High School. By lunch break, he went with his friends to a nearby canteen, where three (3) unidentified men in civilian clothes approached and invited him to the municipal hall. When he said he did not do anything wrong, they assured him that they would only talk to him, and eventually asked about the pending theft case against him. When he again told them that he did nothing wrong, one (1) of the men pointed a gun at him and coerced him into boarding an STX motorcycle.^[18]

Dela Cruz further alleged that they brought him to the police station, where he was interrogated and accused of stealing "spaghetti," a slang for cutting wires. On cross-examination, he revealed that the men who accosted him were not the police officers who testified against him.^[19]

In its July 20, 2015 Decision,^[20] the Regional Trial Court found Dela Cruz guilty of illegal possession and illegal sale of dangerous drugs:

WHEREFORE, premises considered, and the prosecution having established to a moral certainty the guilt of accused JORDAN CASACLANG DELA CRUZ, alias "Pepoy", this Court finds him "GUILTY" of the charges and hereby renders judgment as follows:

1. In Criminal Case No. L-9497 for Violation of Section 11, Art II of the same Act, this Court in the absence of any aggravating circumstance hereby sentences said accused to an indeterminate sentence of twelve (12) years, eight (8) months and one (1) day to seventeen (17) years and eight (8) months and to pay the fine of Three Hundred Thousand Pesos (P300,000.00), with subsidiary imprisonment in case of insolvency; and
2. In Criminal Case No. L-9498 for Violation of Section 5, Art. II of RA 9165, this Court in the absence of any aggravating

circumstance hereby sentences said accused to LIFE IMPRISONMENT, and to pay the fine of Five Hundred Thousand Pesos (P500,000.00) with subsidiary imprisonment in case of insolvency.

Subject drug in both cases are declared confiscated and forfeited in favor of the government to be dealt with in accordance with law.

The accused shall pay the costs of suit.

SO ORDERED.^[21] (Emphasis in the original)

The Regional Trial Court held that PO1 Santillan's testimony had sufficiently established all the elements of the crimes charged. It gave credence to his detailed and categorical testimony, as well as his positive identification of Dela Cruz. It further noted that the two (2) sachets Dela Cruz had sold the police officer, along with the two (2) other plastic sachets in his possession, were found to have contained marijuana and later properly identified in court.^[22]

The Regional Trial Court also held that the prosecution had demonstrated an unbroken chain of custody, preserving the seized items' integrity and evidentiary value. It did not give credence to Dela Cruz's defense of denial, holding that the presumption of regularity in the performance of official duty prevails over bare denials.^[23]

On appeal, the Court of Appeals, in its October 5, 2016 Decision,^[24] affirmed the trial court Decision. It, however, modified the penalty:

WHEREFORE, the appeal is **DENIED**. Consequently, the assailed *Decision* is **AFFIRMED** with the **MODIFICATION** that the accused-appellant, in Criminal Case No. L-9497 for illegal possession of dangerous drugs, shall serve instead the indeterminate sentence of *twelve (12) years and one (1) day, as minimum to fourteen (14) years and eight (8) months, as maximum*.

The separate orders of subsidiary imprisonment in case of insolvency in both Criminal Case Nos. L-9497 and L-9498 are **DELETED**.

IT IS SO ORDERED.^[25] (Emphasis in the original)

Noting that the proviso in Section 21 of the amended Comprehensive Dangerous Drugs Act suggested flexibility in its compliance, the Court of Appeals affirmed that the integrity and evidentiary value of the seized marijuana were properly preserved.^[26]

For the Court of Appeals, the arresting officers' alleged lapses—that the Confiscation Receipt could not be a proper inventory as it did not have Dela Cruz's signature and there were no proper witnesses in the inventory—did not render the arrest illegal or make the seized items inadmissible. It stated that the lack of signature was due to Dela Cruz's own refusal to sign it and receive his copy. As to the third-party witnesses' absence, it gave credence to PO1 Santillan's testimony that time constraints and the uncertainty that Dela Cruz would be in the meeting place prevented the buy-bust team from securing their presence.^[27]

Thus, Dela Cruz filed a Notice of Appeal,^[28] which the Court of Appeals gave due course to on November 9, 2016.^[29]

On March 15, 2017, this Court required the parties to simultaneously file their respective supplemental briefs.^[30]

Both accused-appellant^[31] and the Office of the Solicitor General, on behalf of plaintiff-appellee People of the Philippines,^[32] manifested that they would no longer file supplemental briefs. These were noted by this Court in its July 3, 2017 Resolution.^[33]

In his Brief,^[34] accused-appellant argues that the Regional Trial Court gravely erred in finding him guilty despite the police officers' failure to comply with Section 21 of the Comprehensive Dangerous Drugs Act.^[35] He alleges that the Confiscation Receipt was improper as he did not sign it, and no elected official, Department of Justice representative, or media representative was present during the inventory. He further claims that no valid justification was offered to explain their absence.^[36]

Accused-appellant also points out that the Regional Trial Court failed to conduct an ocular inspection of the seized evidence within 72 hours after the criminal case was filed, as mandated by law. Since there is persistent doubt on the seized drug's identity, accused-appellant maintains that his conviction cannot be sustained.^[37]

On the other hand, the Office of the Solicitor General contends in its Brief^[38] that the prosecution has substantially complied with the provisions of the Comprehensive Dangerous Drugs Act. It noted that: (1) the buy-bust team photographed and marked the *corpus delicti* at the crime scene after accused-appellant's apprehension; and (2) the chain of custody of the confiscated items was established through the prosecution witnesses' testimonies.^[39] It adds that there is a presumption of regularity in the performance of the police officer's duties, absent contrary proof.^[40]

For this Court's resolution is the lone issue of whether or not the absence of an elective official, a representative from the media, and a representative from the Department of Justice during the buy-bust operation warrants accused-appellant Jordan Casaclang Dela Cruz's acquittal.

This Court grants the Petition and acquits accused-appellant of the charges.

I

In a criminal case, the prosecution must discharge the burden of proving the accused's guilt beyond reasonable doubt to secure a conviction for the crime charged. Proof beyond reasonable doubt does not require absolute certainty that excludes error. Rather, this standard requires moral certainty, "or that degree of proof which produces conviction in an unprejudiced mind."^[41]

Beyond being fleshed out by procedural rules, the requirement of proof beyond reasonable doubt occupies a constitutional stature,^[42] as it finds basis not only in the due process clause^[43] of the Constitution, but also in the accused's presumption