

SECOND DIVISION

[G.R. No. 242018, July 03, 2019]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
LYNDON CAÑETE* Y FERNANDEZ AND PETERLOU PIMENTEL Y
BENDEBEL, ACCUSED-APPELLANTS.**

DECISION

CAGUIOA, J:

Before the Court is an appeal^[1] under Section 13(c), Rule 124 of the Rules of Court from the Decision^[2] dated April 24, 2018 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 01688-MIN. The CA Decision affirmed the Decision^[3] dated March 31, 2017 of the Regional Trial Court of Pagadian City, Branch 20 (RTC), in Criminal Case No. 10417-2K12, which found herein accused-appellants Lyndon Cañete y Fernandez and Peterlou Pimentel y Bendebel (collectively, accused-appellants) guilty of violation of Section 5, Article II of Republic Act No. (RA) 9165,^[4] otherwise known as the *Comprehensive Dangerous Drugs Act of 2002*.

The Facts

An Information was filed against accused-appellants for violation of Section 5, RA 9165, which reads in part:

"That on the 17th of January 2012, at 5:00 o'clock in the afternoon, more or less, in Poblacion, Tukuran, Zamboanga del Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating with one another and without having been authorized by law, did then and there willfully, unlawfully and feloniously sell and deliver to IO1 Rolly Calangi, a member of PDEA, who posed as buyer, one heat sealed transparent plastic sachet containing methamphetamine hydrochloride or *shabu* for Three Hundred Pesos (P300.00), knowing the same to be a dangerous drug.

CONTRARY TO LAW."^[5]

When arraigned, accused-appellants entered a plea of "not guilty."^[6] Trial on the merits ensued.

The records present two versions of the antecedents. As gathered by the CA, the prosecution's version is as follows:

On 17 January 2012, the Philippine Drug Enforcement Agency (PDEA) Provincial Office, Pagadian City received a report from a confidential informant regarding appellants' drug activities. Acting on this report,

Agent Pollisco conducted a buy-bust briefing with the confidential informant, Agent Rolly R. Calangi, Agent Alerta, Agent Judilla, and member of the Provincial Intelligence Branch.

During the briefing, Agent Calangi was designated as poseur-buyer and was given P300.00 worth of buy-bust money. Agent Alerta, on the other hand, was designated as back-up arresting officer.

Thereafter, the buy-bust team proceeded to the target area at Tukuran, Zamboanga del Sur. Upon reaching a billiard hall behind the Freedom Stage, the confidential informant alighted from his motorcycle and entered the hall, while the rest of the team positioned themselves along the National Highway.

A few moments later, the confidential informant went out of the billiard hall with appellant [Peterlou Pimentel (Pimentel)], and introduced Agent Calangi to the latter as an interested buyer of shabu. Pimentel told Agent Calangi that a sachet of shabu costs P300.00. Agent Calangi signified his interest to buy a sachet and handed the buy-bust money to Pimentel.

Pimentel then called someone inside the billiard hall, from where emerged appellant [Lyndon Cañete (Cañete)]. Pimentel gave the buy-bust money to Cañete and returned inside the billiard hall. Cañete, on the other hand, went across the road. As instructed by Pimentel, Agent Calangi waited for Cañete's return.

After about five minutes, Cañete returned and handed to Agent Calangi something wrapped in cigarette foil. Upon inspection, Agent Calangi found the foil to contain a sachet of shabu. He then placed the foil and sachet inside his pocket and immediately proceeded to the buy-bust team's location, together with the confidential informant, while Cañete re-entered the billiard hall.

Agent Calangi told the buy-bust team of the transaction that transpired and showed to them the cigarette foil with the sachet of shabu. The buy-bust team decided to return to the billiard hall, leaving the confidential informant behind.

Upon reaching the billiard hall, Agent Calangi saw Cañete sitting on a bench, while Pimentel was standing near a billiard table. He immediately approached and held Cañete and identified himself as a PDEA agent. Upon Agent Calangi's instructions, Agent Alerta, on the other hand, approached and held Pimentel. Both appellants were bodily searched and placed on (sic) handcuffs after being informed of the cause of their arrest and their Miranda rights. During the search, Agent Calangi recovered from Cañete the P300.00 buy-bust money.

As people were starting to gather, Agent Pollisco decided to move his team and appellants out of the vicinity. They proceeded to their service vehicle, where Agent Calangi marked the confiscated evidence, viz:

Item No. 1 – Quantity 1 Heat-sealed transparent sachet containing white crystalline substance suspected to be shabu (buy-bust evidence) with markings RRC BB dated 1-17-12;

Item No. 2 – Quantity 1 Aluminum Foil with markings RRC-1 dated 1-17-12;

Item No. 3 – Quantity 1 Cigarette Foil with Markings RRC-2 dated 1-17-12; and

Item No. 4 – Quantity 3 P100 Bills Buy-Bust Money with Serial Numbers AZO75114; AZO75119 and AZO75114[.]

With Agent Calangi still in custody of the seized evidence, the buy-bust team proceeded to the PDEA Office in Pagadian City. However, due to a power interruption, the team had to go instead to the Provincial Intelligence Branch Office to conduct an inventory of the evidence. Present during the inventory were appellants, media representative Vanessa Cagas, elected official Ernesto Mondarte, and Department of Justice Representative Prosecutor Mary Ann Tugbang-Torres.

Thereafter, the investigator, Agent Decano, took a photograph of the evidence. A letter request for laboratory examination was likewise prepared and submitted by Agent Calangi to the Zamboanga del Sur Crime Laboratory.

PSI Christine Grace Bustillo received the letter request and examined the submitted specimen, which tested positive for methamphetamine hydrochloride or shabu.^[7]

Meanwhile, accused-appellants rely on a different narration of facts for their defense, to wit:

At around 5:00 o'clock in the afternoon on January 17, 2012 at Poblacion, Tukuran, Lyndon was working as a watcher for Jun Bangas' Billiard Hall ("billiard hall" for brevity); when suddenly, an unknown female and two (2) unknown armed males approached him, pointing their gun at him. They grabbed him and pulled his arms behind his back.

Thereafter, he was bodily searched twice by these operatives and recovered from him, more or less, is [*sic*] P600.00 sum of money in P20.00 and P50.00 bills. The money recovered from him are payments made to him by the players of the billiard hall. He was then brought inside a white colored vehicle.

Lyndon and the three (3) unknown persons left Tukuran and made a stop-over at Park-In-Go, which is seventy (70) meters away from the billiard hall. While inside the vehicle, he was again frisked by his captors. He was then choked, threatened with a gun, and asked who was selling. He replied that he was only watching the billiard hall.

Afterwards, seven (7) armed persons, whom he saw earlier, before they

boarded him in the vehicle approached him. They had with them Peterlou.

For his part, [Peterlou] testified that on the date of the alleged incident, he was at the billiard hall at Poblacion, Tukuran. He was watching a game while waiting for his younger brother when two (2) armed women entered the premises and approached Lyndon. He saw how they searched the body of Lyndon, confiscated his money and subsequently arrested him. He even saw Lyndon being brought inside a vehicle and was driven away.

Peterlou stayed at the billiard hall for thirty (30) minutes; however, three (3) unknown armed persons arrived and approached him. He was requested to come with them, because they were to ask queries about Lyndon. He acquiesced to their request and was brought to Park-In-Go Store.

Both appellants Lyndon and Peterlou were brought to Dao for their dinner. Afterwards, they headed to Camp Abelon.

They arrived at Camp Abelon at around 10:00 o'clock in the evening, where they were padlocked and forced to sign a document. It was then when the appellants first saw Agent Calangi. He was the one who showed them the document that they were forced to sign.

Apparently, an Information for selling a sachet of shabu was filed against Lyndon and Peterlou. However, they found out the exact charge that was filed against them only during arraignment.^[8]

Ruling of the RTC

In the Decision dated March 31, 2017, the RTC found accused-appellants guilty beyond reasonable doubt of the crime charged:

WHEREFORE, this court finds the two accused LYNDON CA[Ñ]ETE y FERNANDEZ and PETERLOU PIMENTEL y BENDEBEL, guilty beyond reasonable doubt for Violation of Section 5, Article II of RA 9165 and both are sentenced to suffer Life Imprisonment and are ordered to pay jointly a fine of PHP500,000.00.

The PDEA of Pagadian City is hereby directed to coordinate with the Branch Clerk of Court for the destruction of the SHABU pursuant to the provisions of RA 9165 fifteen (15) days from receipt of this Decision.

SO ORDERED.^[9]

Without delving into specifics, the RTC mentioned lapses of procedure in the handling of the seized drug but nevertheless found that the integrity and evidentiary value of the seized item were properly preserved and established through evidence of an unbroken chain of custody.^[10] The RTC likewise favored the testimony of the police officers based on the presumption that they performed their duties in a regular manner.^[11]

Pleading their innocence, accused-appellants appealed to the CA.

Ruling of the CA

In the CA Decision, the CA affirmed the RTC Decision *in toto*, as follows:

WHEREFORE, the appeal is **DISMISSED**. The 31 March 2017 Decision of the Regional Trial Court, Branch 20, Pagadian City, in Criminal Case No. 10417-2K12 finding appellants guilty beyond reasonable doubt of selling *shabu* defined and penalized under Section 5 of RA 9165 (The Comprehensive Dangerous Drugs Act of 2002), is **AFFIRMED in toto**.

SO ORDERED.^[12]

The CA sustained the conviction of accused-appellants notwithstanding certain lapses in the transmission of the *shabu* allegedly seized from them.^[13] While the CA confirmed that the inventory was not conducted immediately after seizure and at the place prescribed under the law, it nevertheless found such lapses excusable under the circumstances.^[14]

Hence, this appeal.

In the main, accused-appellants lament the lapses committed by the buy-bust team in effecting the seizure of the dangerous drug. In particular, they insist that the inventory and photographing of the seized item were not done immediately after seizure and at the nearest police station or office of the Philippine Drug Enforcement Agency (PDEA), contrary to Section 21 of RA 9165.

Issue

Whether accused-appellants are guilty beyond reasonable doubt for the crime charged.

The Court's Ruling.

The appeal is granted.

Requirements under Section 21 of RA 9165 and the IRR are mandatory

Section 21, Article II of RA 9165 lays down the following procedural requirements in the seizure, custody, and disposition of dangerous 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