

FIRST DIVISION

[G.R. No. 213389, August 14, 2019]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. EBO
PLACIENTE Y TEJERO, ACCUSED-APPELLANT,**

DECISION

BERSAMIN, C.J.:

This appeal assails the decision promulgated on December 18, 2013,^[1] whereby the Court of Appeals (CA) affirmed the conviction of accused-appellant Ebo Placiente y Tejero handed down by the Regional Trial Court (RTC) in Quezon City for illegal sale of *shabu* in violation of Section 5 and for illegal possession of *shabu* in violation of Section 11, both of Republic Act No. 9165 (*Comprehensive Dangerous Drugs Act*).

Antecedents

The accused-appellant was charged in the RTC under the following informations, to wit:

Criminal Case No. Q-05-132073

That on or about the 24th day of January, 2005, in Quezon City, Philippines, the said accused, not being authorized by law to sell, dispense, deliver, transport or distribute any dangerous drug, did, then and there, wilfully and unlawfully sell, dispense, deliver, transport, distribute or act as broker in the said transaction, Zero point zero five (0.05 grams) containing white crystalline substance (Methylamphetamine Hydrochloride) a dangerous drug.

CONTRARY TO LAW.^[2]

Criminal Case No. Q-05-132074

That on or about the 24th day of January, 2005, in Quezon City, Philippines, the said accused, not being authorized by law to possess any dangerous drug, did, then and there, wilfully, unlawfully and knowingly have in his/her/their possession and control, Zero point zero four (0.04 grams) containing white crystalline substance (Methylamphetamine Hydrochloride) a dangerous drug.

CONTRARY TO LAW.^[3]

The cases were consolidated for arraignment and trial. At arraignment, the accused-appellant pleaded *not guilty* to the charges.^[4]

The CA summarized the factual and procedural antecedents in the following manner:

THE PROSECUTION'S EVIDENCE:

Gathered from the testimonies of PO2 Balbino Reas and PO3 Noel Magcalayo, the following were established:

PO2 Reas and PO3 Magcalayo are members of the Philippine National Police (PNP) assigned at the Police Station 6, Batasan Hills, Quezon City.

On January 24, 2005, at around 3:30PM., a police informant arrived at Police Station 6 to report about the alleged peddling of illegal drugs by the accused-appellant in his place in Kaunlaran Street, Brgy. Commonwealth, Quezon City. Immediately, a police team, composed of SPO1 Amor Guiang, who acted as the team leader, PO2 Reas, who acted as the poseur[-]buyer of drugs, and PO3 Magcalayao, who acted as back-up was formed to confirm the veracity of the informant's report and conduct a buy-bust operation. Before dispatching the team, SPO1 Amor Guiang briefed them and gave their specific tasks. A Pre-Operation Report and Coordination Sheet were prepared and submitted to the Philippine Drug Enforcement Agency (PDEA). PO2 Reas also prepared the marked money consisting of 2 pieces of P100.00 each of which was marked with his initials, "BR".

At about 5 PM, the team proceeded to the target area along Kaunlaran Street in Brgy. Commonwealth, Quezon City.

Upon seeing accused-appellant in front of his house, PO2 Reas and the informant approached him. The informant introduced PO2 Reas to accused-appellant and told him that PO2 Reas wanted to buy shabu.

PO2 Reas told the accused-appellant that he only wanted to buy P200.00 worth of shabu. Accused-appellant first demanded for the payment. When PO2 Reas gave him the P200.00 marked money, accused-appellant handed him 1 small plastic sachet of suspected shabu. At that instance, PO2 Reas raised his right hand as a pre-arranged signal that the drug deal was consummated.

Upon seeing the pre-arranged signal, PO3 Magcalayo rushed towards the direction of PO2 Reas and accused-appellant. He then introduced himself to accused-appellant as police officer (sic).

After accused-appellant was apprised of his constitutional rights, PO3 [Magcalayo} did a bodily search on him and found another plastic sachet of suspected shabu inside the right pocket of his pants. PO3 Magcalayo recovered the buy-bust money, and a 9 mm pistol from accused-appellant's possession. Thereafter, the accused-appellant was handcuffed and arrested.

The police officers then brought accused-appellant to Police Station 6. There, PO2 Reas marked the 2 plastic sachets recovered from accused-appellant with his and accused-appellant's initials "BR-EP". When the 2 plastic sachets were submitted for laboratory examination, they yielded a positive result to the test for Methylamphetamine Hydrochloride, a dangerous drug.

The prosecution and the defense stipulated on the proposed testimony of Engr. Leonard Jabonillo as follows: "(1) That he received the request for laboratory examination dated 24 January 2005; (2) That he conducted the examination on the specimen; (3) That he reduced his findings into writing, which is Chemistry Report No. D-056-2005; (4) That he found the specimen to be positive for methylamphetamine hydrochloride, a dangerous drug; and (5) That he has no personal knowledge as to the facts and the circumstances surrounding the arrest of the accused."

Likewise, the prosecution and the defense stipulated on the proposed testimony of PO1 Darwin Ferre as follows: "(1) That he conducted the investigation on the accused when he was arrested; and (2) That he mechanically prepared the referral letter; the joint affidavit and the inventory and the inventory of seized items."

On cross-examination, PO2 Reas testified that the inventory of the seized articles from accused-appellant was done at Police Station 6 and not in the crime scene because the area was critical. On re-direct examination, he said that no photograph of the contraband was taken as their office was not issued with a camera. He also said that they had no more time to call on the media when the inventory of the seized articles took place.

The prosecution offered as documentary evidence, the following: (1) Request for Laboratory Examination of the 2 heat-sealed transparent plastic sachets containing white crystalline substances of suspected shabu marked as "BR/EP-1 and BR/EP-2" signed by Police Chief Inspector Arnold E. Abad; and (2) Chemistry Report No. D-056-2005 prepared by Engr. Leonard M. Jabonillo, Chemist II, Forensic Analyst of the PNP Crime Laboratory. The Report contains the following entries:

"SPECIMEN SUBMITTED:

Two (2) heat-sealed transparent plastic sachets each containing white crystalline substance having the following markings and recorded net weights:

A (BR/EP-1) = 0.05 gm & B (BR/EP-2) = 0.04 gm.

FINDINGS:

Qualitative examination conducted on the above-stated specimen gave POSITIVE result to the test for Methylamphetamine Hydrochloride, a dangerous drug. xxx

CONCLUSION:

Specimen A and B are Methylamphetamine Hydrochloride, a dangerous drug. xxx"

THE DEFENSE EVIDENCE:

Accused-appellant and a certain Diosia Soria were presented as defense witnesses.

Accused-appellant testified that, on January 24, 2005, at around 2:30 PM, while he was taking a bath at his residence in 458 Kaunlaran Street, Brgy. Commonwealth, Quezon City, a barangay official named Jun Mitra, a.k.a. Ben and 14 other men arrived. Jun Mitra allegedly pointed a gun at

him and ordered the other men to arrest him. PO2 Reas and a barangay official then held him on his shoulders, pushed him and brought him to Police Station 6, Batasan Hills, Quezon City.

When they reached the police station, a certain Lt. Aquino allegedly talked to him and asked him if he can produce P50,000.00. Since he did not have the money, the police officers detained him.

During cross-examination, accused-appellant testified that he did not have any argument with PO2 Reas and PO3 Magcalayo prior to his arrest. He said that he was arrested because when the barangay officials arrived at their place, he was the only one left in the area; the other men scampered away. He said his father filed a case before the Ombudsman against the police officers and barangay officials who arrested him. The case, however, was dismissed because the subpoena was not properly served.

Diosa Soria, a candy vendor along Kaunlaran Street, testified that she was selling her merchandise in the same compound where accused-appellant lives. On June 24, 2005, she noticed several armed men in civilian attire, about 15 in number, search about 20 houses in the compound where accused-appellant lives. From where she was situated, about 3 to 4 meters away, she heard one of the armed men ask the accused-appellant if he knew of a person named Boboy. Accused-appellant replied that he does not know of a person named Boboy. Thereafter, one of the armed men showed a gun and said "arrest that man, this is the evidence against him". Accused-appellant was then ordered to sit down along the alley; he was handcuffed and brought to Police Station 6.^[5]

Judgment of the RTC

On March 2, 2011, the RTC rendered judgment convicting the accused-appellant of the crimes charged, decreeing thusly:

ACCORDINGLY, judgment is rendered finding the accused EBO PLACIENTE Y TEJERO GUILTY beyond reasonable doubt of the two (2) offenses he was charged in this Court, namely, for violation of Section 5 of R.A. 9165 (for selling shabu, a dangerous drug) and for violation of Section 11 of R.A. 9165 (for unlawful possession of shabu) and consequently, the accused is hereby sentenced as follows:

In Q-05-132073, to a jail term of LIFE IMPRISONMENT and payment of a fine of P500,000.00, and (2) [i]n Q-05-132074, to a jail term of Twelve (12) Years and One (1) day, as minimum and Fourteen (14) Years as maximum and payment of a fine of P300,000.00.

The two (2) sachets of [methamphetamine] hydrochloride (shabu) involved in these two (2) cases are ordered transmitted to PDEA thru DDB for disposal pursuant to R.A. 9165.

SO ORDERED.^[6]

The RTC opined that the buy-bust operation mounted against the accused-appellant was legitimate; that the accused-appellant and his witness, Dios Soria had incurred in inconsistencies; that the evidentiary value of the items seized from the accused-appellant had been preserved; that the police officers had made the inventory at the police station because it had become dangerous for them to remain and make the inventory at the place of arrest; that the situation at the time had justified the departure from the prescribed procedure; and that the inventory had been nonetheless done immediately following the arrest in a manner as to avoid the suspicion that the police officers had switched the items seized from the accused-appellant.^[7]

Decision of the CA

As earlier stated, the CA affirmed the conviction of the accused-appellant through the appealed decision,^[8] viz.:

WHEREFORE, the appeal is **DENIED**. The Decision of the RTC of Quezon City, Branch 79, in Crim. Case No. Q-05-132073 and Crim. Case No. Q-05-132074, are hereby **AFFIRMED**.

SO ORDERED.^[9]

The CA pointed out that the identity of the accused-appellant as the person who had sold the *shabu* to PO2 Balbino Reas was established; that the Prosecution had delineated how the sale of the *shabu* had actually taken place, and how the accused-appellant had also possessed another plastic sachet of suspected *shabu*; that the chain of custody of the seized dangerous drugs had not been compromised; and that the integrity and evidentiary value of the evidence seized were presumed to be preserved absent any showing of bad faith and ill will on the part of the arresting officers, or absent proof showing that the same had been tampered with.^[10]

Issues

In his appeal, the accused-appellant reiterates the arguments contained in his appellant's brief filed in the CA. He argues that the Prosecution did not prove his guilt beyond reasonable doubt because the apprehending officers had not complied with the statutory requirements imposed by R.A. No. 9165; that gaps regarding the whereabouts and condition of the seized drugs from the time they had come into the possession of the apprehending officers until they had been tested in the laboratory existed; that the such gaps had allowed the possibility of the seized drugs being exposed to alteration, tampering, contamination and even substitution, thereby placing the integrity and evidentiary value of the seized items in question; that the failure of the police officers to comply with the procedure for the custody of the seized drugs raised doubts as to their origin, and negated the presumption of regularity in the performance of their official duties accorded to the apprehending police officers; that there had been no representatives from the media and from the Department of Justice (DOJ), or any elected public official in attendance despite such persons being required to participate in the operation and despite such individuals being required to sign the inventory of seized items; that the excuse given by the apprehending officers for their non-compliance with the statutory requirements necessary for the preservation of the chain of custody had not been justifiable; and that the lapses committed by the apprehending officers had cast