

THIRD DIVISION

[G.R. No. 225210, August 07, 2019]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LARRY SULTAN Y ALMADA, ACCUSED-APPELLANT.

DECISION

LEONEN, J.:

Unless an unbroken chain of custody over items allegedly seized during drug operations is established, the constitutional right to be presumed innocent prevails. Ultimately, doubt in the *corpus delicti*—the drugs and drug paraphernalia that were the alleged objects of a drug offense—impels the acquittal of an accused.

For this Court's resolution is an appeal challenging the Decision^[1] of the Court of Appeals. The Court of Appeals affirmed *in toto* the Decision^[2] of the Regional Trial Court, finding accused-appellant Larry Sultan y Almada (Sultan) guilty beyond reasonable doubt of violating Article II, Sections 5 and 11 of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

Two (2) separate Informations were filed against Sultan for violating the Comprehensive Dangerous Drugs Act of 2002. The charge for violation of Section 5, for the illegal sale of dangerous drugs, read:

Criminal Case Nos. 12-37189

That on or about the 6th day of December, 2012, in the City of Bacolod, Philippines, and within the jurisdiction of this Honorable Court, the herein accused, not being authorized by law to sell, trade, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drugs, did then and there willfully, unlawfully and feloniously sell, deliver or give away One (1) small heat-sealed transparent plastic sachet containing methamphetamine hydrochloride, also known as Shabu, a dangerous drug, with a weight of 0.080 gram of white crystalline substance, with marking "LAS-A" to the CAID-SOTG, BCPO, Bacolod City poseur-buyer PO2 Tony D. Hechanova in a buy-bust operation in exchange on One (1) piece One Thousand peso bill bearing Serial No. QJ921640 with SYR marking, in violation of aforementioned law.^[3]

Meanwhile, the charge for violation of Section 11, for the illegal possession of dangerous drugs, read:

Criminal Case Nos. 12-37188

That on or about the 6th day of December, 2012, in the City of Bacolod,

Philippines, and within the jurisdiction of this Honorable Court, the herein accused, not being authorized by law to possess any dangerous drugs, did then and there willfully, unlawfully and feloniously have in his possession and under his custody and control, THREE (3) big heat-sealed plastic sachets with the following weights and markings:

1)	"LAS B- 1"	2.982
2)	"LAS B- 2"	3.256
3)	"LAS B- 3"	<u>2.572</u>
	TOTAL WEIGHT	8.810

containing white crystalline substance with a total weight of 8.810 grams, containing Methamphetamine Hydrochloride, a dangerous drug, without the corresponding license or prescription therefore (*sic*), in violation of aforementioned law.^[4]

When arraigned on December 18, 2012, Sultan pleaded not guilty to the crimes charged. Trial then followed.^[5]

The prosecution presented three (3) witnesses: (1) Police Superintendent Santiago Y. Rapiz (Superintendent Rapiz); (2) Police Officer 2 Tony D. Hechanova (PO2 Hechanova); and (3) Police Chief Inspector Paul Jerome S. Puentespina (Chief Inspector Puentespina). For the defense, Sultan and Marian M. Batungara (Batungara) took the witness stand.^[6]

According to the prosecution, at around 2:00 p.m. on December 6, 2012, Superintendent Rapiz was informed that a certain Larry Sultan was engaging in the illegal trade of shabu. Accordingly, he assembled a buy-bust team, designating PO2 Hechanova as the poseur-buyer. PO2 Hechanova received a marked P1,000.00 bill for the transaction.^[7]

Later that day, PO2 Hechanova and the confidential asset rode a jeep to the Sea Breeze Hotel on San Juan Street, Bacolod City.^[8]

Upon arrival, they approached Sultan, who was standing at the hotel's main door. The confidential asset inquired if Sultan has P1,000.00 worth of shabu. Confirming that he had it, Sultan handed PO2 Hechanova an elongated sachet containing white crystalline substance in exchange for the marked money. As soon as the transaction occurred, the asset placed a missed call to the team, which then rushed to the scene. Meanwhile, PO2 Hechanova introduced himself as a police officer and arrested Sultan.^[9]

Upon frisking Sultan, PO2 Hechanova recovered three (3) plastic sachets of suspected shabu in his left pocket. He then informed Sultan of the nature and cause of his arrest and apprised him of his constitutional rights.^[10]

Sultan was then brought to the barangay hall of Barangay 12, Bacolod City where PO2 Hechanova marked the plastic sachets. The inventory and photographing of the

seized items were made in the presence of Punong Barangay Demapanag and Kagawad Gomez.^[11]

Subsequently, PO2 Hechanova requested a laboratory examination of the seized sachets' contents at the Philippine National Police Crime Laboratory Office Six, Camp Montelibano, Bacolod City.^[12] PO2 Edwin Albarico (PO2 Albarico) received the specimen,^[13] after which he gave it to Chief Inspector Puentespina who examined the seized items, which tested positive for shabu.^[14]

Testifying in his defense, Sultan denied possessing and selling shabu. He claimed that at around 2:00 p.m. on December 6, 2012, he was booking a room with Batungara at the Sea Breeze Hotel when he received a call from a friend, Erwin Elibaldo (Elibaldo). When Elibaldo allegedly expressed his desire to pay his debt, Sultan arranged for their meeting in the hotel. A few minutes later, Elibaldo arrived with two (2) strangers, whom Sultan later came to know as police officers. They approached Sultan, took his sling bag, and arrested him.^[15]

Then, the officers brought him to Superintendent Rapiz's office at a certain JMP Building.^[16] Superintendent Rapiz allegedly talked about bargaining, but it did not make sense to Sultan. Afterwards, he was brought to a barangay hall, where the police officers opened his sling bag and marked its contents, which, according to Sultan, did not include shabu.^[17]

Batungara corroborated Sultan's testimony.^[18]

In its November 27, 2013 Decision,^[19] the Regional Trial Court found Sultan guilty beyond reasonable doubt of violating Section 5, for the illegal sale of dangerous drugs, and Section 11, for the illegal possession of dangerous drugs, under Article II of the Comprehensive Dangerous Drug Act.^[20]

The Regional Trial Court ruled that the prosecution established all the elements of the crimes and satisfactorily proved the identity of the dangerous drugs. It found PO2 Hechanova's "candid and straightforward testimony"^[21] deserving of full faith and credit, finding no ill motive on his part.^[22] The dispositive portion of the Decision read:

WHEREFORE, premises considered, judgment is hereby rendered, as follows:

(a) In Criminal Case No. 12-37189, finding Accused-Defendant LARRY SULTAN y ALMADA **GUILTY**, beyond reasonable doubt, of Section 5, Article II, Comprehensive Dangerous Drug Act of 2002. He is hereby sentenced to suffer the penalty of life imprisonment and to pay a fine of Five Hundred Thousand Pesos (P500,000.00);

(b) In Criminal Case No. 12-37188, finding Accused-Defendant LARRY SULTAN y ALMADA **GUILTY**, beyond reasonable doubt, of Section 11, Article II, Comprehensive Dangerous Drug Act of 2002. He is hereby sentenced to suffer the penalty of twenty (20) years and one (1) day and to pay a fine of Four Hundred Thousand Pesos (P400,000.00).

(c) The dangerous drug subject matter of these cases (Exhibits "C" to "F") are hereby confiscated in favor of the government pursuant to Section 20, R.A. No. 9165 and ordered to be turned-over to the Philippine Drug Enforcement Agency (PDEA), Regional Office Six (6) for destruction;

(d) The Jail Warden of the Bureau of Jail Management and Penology, Male Dormitory, Barangay Taculing, Bacolod City is hereby **ORDERED** to **IMMEDIATELY TRANSFER** Accused-Defendant LARRY SULTAN y ALMADA to the National Bilibid Prison, Muntinlupa City, Metro Manila, for the service of his sentence pursuant to OCA Circular No. 40-2013; and,

(e) No pronouncement as to cost.

SO ORDERED.^[23] (Emphasis in the original)

In its October 20, 2015 Decision,^[24] the Court of Appeals affirmed Sultan's conviction *in toto*. It dismissed as trivial the prosecution's failure to identify who had custody of the seized evidence at all times.^[25] Maintaining that what is important is the preservation of the seized items' integrity, the Court of Appeals held that "the testimony about a perfect chain is not always the standard as it is almost always impossible to obtain an unbroken chain."^[26] The dispositive portion of its Decision read:

WHEREFORE, in view of the foregoing, the appeal is **DENIED**. The 27 November 2013 Decision of the Regional Trial Court of Bacolod City, Branch 52 finding Larry Sultan y Almada guilty beyond reasonable doubt for violating Sections 5 and 11, Article II of R.A. No. 9165, in Criminal Case Nos. 12-37188 and 12-37189 is **AFFIRMED in toto**.

SO ORDERED.^[27] (Emphasis in the original)

Thus, Sultan filed his Notice of Appeal.^[28] Giving due course to his appeal per its April 22, 2016 Resolution,^[29] the Court of Appeals elevated^[30] the case records to this Court.

In its August 10, 2016 Resolution,^[31] this Court noted the case records and informed the parties that they may file their supplemental briefs.

On November 13, 2018, accused-appellant filed his Supplemental Brief.^[32] For its part, the Office of the Solicitor General, on behalf of plaintiff-appellee People of the Philippines, manifested that it would no longer file a supplemental brief.^[33]

In his Brief,^[34] accused-appellant asserts that the Court of Appeals erred in affirming his conviction despite the prosecution's failure to prove an unbroken chain of custody. He assails the police officer's unjustified marking of the seized items at the barangay hall instead of at the place of confiscation.^[35] He argues that the non-presentation of PO2 Albarico, the police officer who allegedly received the specimen for examination, casts doubt on the identity and integrity of the seized items.^[36]

On the other hand, the Office of the Solicitor General maintains in its Brief^[37] that the prosecution duly established all the elements of the crimes of illegal sale and illegal possession of dangerous drugs. It further avers that the chain of custody was properly established.^[38]

For this Court's resolution is the lone issue of whether or not accused-appellant Larry Sultan y Almada is guilty beyond reasonable doubt of violating Article II, Sections 5 and 11 of the Comprehensive Dangerous Drugs Act.

This Court grants the appeal and acquits accused-appellant.

I

Settled are the elements required to sustain convictions for violations of Section 5, for the illegal sale of dangerous drugs, and Section 11, for the illegal possession of dangerous drugs, of the Comprehensive Dangerous Drugs Act. These are enumerated in *People v. Que*:^[39]

In actions involving the illegal sale of dangerous drugs, the following elements must first be established: (1) proof that the transaction or sale took place and (2) the presentation in court of the *corpus delicti* or the illicit drug as evidence.

On the other hand, in prosecutions for illegal possession of a dangerous drug, it must be shown that (1) the accused was in possession of an item or an object identified to be a prohibited or regulated drug, (2) such possession is not authorized by law, and (3) the accused was freely and consciously aware of being in possession of the drug. Similarly, in this case, the evidence of the *corpus delicti* must be established beyond reasonable doubt.^[40]

In both cases, the *corpus delicti* is the illicit drug seized from the accused.^[41] In *People v. Sagana*:^[42]

"[I]t is of paramount importance that the existence of the drug, the *corpus delicti* of the crime, be established beyond doubt." Its identity and integrity must be proven to have been safeguarded. Aside from proving the elements of the charges, "the fact that the substance illegally possessed and sold [was] the same substance offered in court as exhibit must likewise be established with the same degree of certitude as that needed to sustain a guilty verdict." The chain of custody carries out this purpose "as it ensures that unnecessary doubts concerning the identity of the evidence are removed."^[43]

Section 21 of the Comprehensive Dangerous Drugs Act, as amended by Republic Act No. 10640, outlines the requirements for the custody and disposition of confiscated, seized, and/or surrendered drugs and/or drug paraphernalia:

SECTION 21. *Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals,*