

THIRD DIVISION

[G.R. No. 232620, August 05, 2019]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
JAYSON MERANDO Y AVES, ACCUSED-APPELLANT.**

DECISION

LEONEN, J.:

Unjustified noncompliance with the chain of custody procedure will shroud in doubt the identity and integrity of the dangerous drug allegedly seized. When there is reasonable doubt, an accused's acquittal must ensue.

This Court resolves an appeal from the Decision^[1] of the Court of Appeals, which affirmed the Regional Trial Court's Judgment^[2] finding Jayson Merando y Aves (Merando) guilty beyond reasonable doubt of the crime of illegal sale of dangerous drugs and sentencing him to suffer the penalty of life imprisonment.

In an April 11, 2013 Information,^[3] Merando was charged with violation of Article II, Section 5 of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002. The Information read:

On or about April 9, 2013, in Pasig City, and within the jurisdiction of this Honorable Court, the above-accused, not being lawfully authorized by law, did then and there willfully, unlawfully and feloniously sell, deliver and give away to PO1 Edmon Reyes, one (1) heat-sealed transparent plastic sachets (sic) containing two point seventeen centigrams (2.17 grams), of dried suspected Marijuana fruiting tops, which after qualitative examination, was found positive to the test for the presence of Marijuana, a dangerous drug, in violation of the said law.

Contrary to law.^[4]

During arraignment, Merando pleaded not guilty to the charge. Trial on the merits then ensued.^[5]

The prosecution presented the following as its witnesses: (1) Police Chief Inspector Estella S. Garciano (Chief Inspector Garciano); (2) Police Officer 1 Edmon B. Reyes (PO1 Reyes); (3) PO2 Fidel R. Anggati (PO2 Anggati); (4) PO3 Andrew C. Prado (PO3 Prado); and (5) PO2 Gerald G. Galutan (PO2 Galutan).^[6] However, the testimonies of Chief Inspector Garciano, PO3 Prado, and PO2 Galutan were dispensed with when the parties entered into a stipulation of facts.^[7]

According to the prosecution, at around 7:00 p.m. on April 8, 2013, a confidential informant went to the office of the Station Anti-Illegal Drugs Special Operation Task

Group at the Pasig City Police Station. The informant reported to Chief Inspector Renato B. Castillo (Chief Inspector Castillo) that a certain "Begote," later identified as Merando, was rampantly selling illegal drugs along Magsaysay Street, Barangay Manggahan, Pasig City.^[8]

Acting on the information, Chief Inspector Castillo organized a buy-bust team composed of PO1 Reyes as the poseur-buyer and PO2 Anggati as the immediate backup. Chief Inspector Castillo gave PO1 Reyes a P100.00 bill with Serial No. ZK155166 to serve as the buy-bust money.^[9] PO1 Reyes placed his initials, "EBR," on the upper right corner of the bill. He then coordinated with the Philippine Drug Enforcement Agency.^[10]

At around 2:00 p.m. the following day, the informant told PO1 Reyes that Begote was spotted along Magsaysay Street and asked the team to meet him at a certain burger stand.^[11] The team first went to the Manggahan Barangay Hall to enter in the barangay blotter that a buy-bust operation would be conducted in the barangay.^[12]

From there, the team headed to the burger stand to wait for the informant. After a few minutes, the informant arrived and told them that Begote was at a market on Magsaysay Street.^[13] Together with the informant, PO1 Reyes proceeded to the market while the rest of the team followed.^[14]

When they reached the market, the informant approached a man and introduced him to PO1 Reyes as Begote. Begote asked PO1 Reyes what he wanted from him, to which the officer replied that he wanted to buy marijuana. Begote then told PO1 Reyes that he still had one (1) left and demanded payment.^[15]

After receiving the marked P100.00 bill, Begote handed PO1 Reyes one (1) plastic sachet containing suspected dried marijuana leaves. Upon exchange, PO1 Reyes turned his cap to signify that the sale had been consummated. As PO2 Anggati approached the scene, PO1 Reyes held Begote's arm and introduced himself as a police officer. PO2 Anggati, who also introduced himself as a police officer, then seized the buy-bust money from Begote's hand.^[16]

At the place of arrest and in Begote's presence, PO1 Reyes signed the plastic sachet containing suspected marijuana, marking it "1 ERB/BEGOTE 04/09/2013."^[17] In the same place, PO1 Reyes photographed and inventoried the seized item.^[18]

With the seized items in his custody, PO1 Reyes and his team proceeded to Manggahan Barangay Hall. There, the team asked two (2) barangay officials, Luis S. Magudadayao (Magudadayao) and Noli Nicolas Novero (Novero), to sign the inventory.^[19]

The buy-bust team then went to the Pasig City Police Station where PO3 Prado prepared the requests for laboratory examination and drug test.^[20]

The buy-bust team then took Begote to Rizal Medical Center for a medical examination. Afterward, they went to the Eastern Police District Crime Laboratory in

Marikina City, where the seized item, request for laboratory examination, and chain of custody form were received by PO2 Galutan.^[21] The contents of the sachet tested positive for marijuana.^[22]

The defense's sole witness was Merando, who denied selling marijuana. He claimed that in the afternoon of April 9, 2013, he was playing his Play Station Portable on his way home when a man—later identified as PO1 Reyes—put an arm around his shoulder, claimed to be a police officer, and told him not to run away. When Merando asked what crime he committed, PO1 Reyes ignored the question and proceeded to apprehend him. The officer then frisked him, but he recovered nothing.^[23]

Merando was then brought to the Manggahan Barangay Hall, where he was accused of selling marijuana. He claimed that PO1 Reyes brought out a sachet of marijuana and a document from his shoulder bag and ordered him to sign the document. He said that he tried to explain to the people at the barangay hall that the sachet of marijuana did not come from him, but no one listened. He was then brought to the police station.^[24]

There, PO1 Anggati informed Merando that he would be charged with violating Sections 5 and 11. He said that he did not understand what this meant until he was detained in the city jail.^[25]

In its October 26, 2015 Judgment,^[26] the Regional Trial Court found Merando guilty beyond reasonable doubt of the illegal sale of dangerous drugs in violation of Article II, Section 5 of the Comprehensive Dangerous Drugs Act of 2002.^[27]

The trial court ruled that the prosecution established the elements of the crime with proof beyond reasonable doubt.^[28] It found that the identity and evidentiary value of the seized item were preserved even though none of the required third-party witnesses were present in inventorying and photographing the seized items.^[29]

The trial court also found that the prosecution established an unbroken chain of custody from the arresting officer to the investigating officer, and finally, to the forensic chemical officer.^[30]

The dispositive portion of the Regional Trial Court's Decision read:

WHEREFORE, premises considered, accused JAYSON MERANDO y AVES is hereby found GUILTY beyond reasonable doubt of the offense of illegal sale of 2.17 grams of dried Marijuana fruiting tops, a dangerous drugs (sic), and sentences him to life imprisonment and to pay a fine of five hundred thousand pesos (P500,000.00).

Atty. Rachel G. Matalang is directed to forward the sachet of marijuana (Exhibit "S") to the Philippine Drugs Board for destruction.

SO ORDERED.^[31]

Merando appealed^[32] before the Court of Appeals.

In his Brief,^[33] Merando argued that the Regional Trial Court erred in convicting him despite the police officers' noncompliance with Section 21, particularly in their failure to secure the third-party representatives required by law.^[34] He also claimed that the saving clause in Section 21 did not apply because the prosecution failed to provide a justifiable ground for their noncompliance.^[35]

On the other hand, the Office of the Solicitor General argued in its Brief^[36] that the elements of the crime were duly established.^[37] Maintaining that every link in the chain of custody was sufficiently accounted for,^[38] it contended that the integrity of the seized item was preserved despite the apprehending team's failure to strictly comply with Section 21's requirements. It emphasized that the law only required "'substantial' and not 'perfect adherence[.]'"^[39]

In its April 26, 2017 Decision,^[40] the Court of Appeals affirmed Merando's conviction. It decreed that the absence of representatives from the media and the Department of Justice did not render the confiscated items inadmissible.^[41] It further ruled that Merando failed to show that there was "bad faith, ill will, or proof that the evidence has been tampered with."^[42]

Thus, Merando filed a Notice of Appeal,^[43] which was given due course^[44] by the Court of Appeals.

In its October 2, 2017 Resolution,^[45] this Court informed the parties to file their supplemental briefs. Both accused-appellant^[46] and the Office of the Solicitor General,^[47] on behalf of plaintiff-appellee People of the Philippines, manifested that they would no longer file supplemental briefs.

The sole issue for this Court's resolution is whether or not the Court of Appeals correctly upheld the conviction of accused-appellant Jayson Merando y Aves for violating Article II, Section 5 of the Comprehensive Dangerous Drugs Act.

The appeal is meritorious.

I

In the prosecution of cases involving the illegal sale of dangerous drugs, the following requisites must be duly established to sustain a conviction: "(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."^[48]

The dangerous drug seized from an accused constitutes the *corpus delicti* of the offense.^[49] "Its existence must be proved beyond reasonable doubt."^[50] More to the point, the transacted drugs must not only be proven to actually exist, but must also be ascertained to be the same drug examined and presented in court.^[51] As held in *People v. Siaton*:^[52]

To elucidate on the foregoing elements, this Court has said that "in prosecutions for illegal sale of drugs, what is material is proof that the

transaction or sale actually took place, coupled with the presentation in court of the *corpus delicti* as evidence." The dangerous drug itself constitutes the very *corpus delicti* of the offense and to sustain a conviction, the identity and integrity of the *corpus delicti* must be shown to have been preserved. This requirement necessarily arises from the "illegal drug's unique characteristic that renders it indistinct, not readily identifiable, and easily open to tampering, alteration or substitution either by accident or otherwise." In drugs cases, it is essential that the identity of the prohibited drug be established beyond reasonable doubt. The mere fact of unauthorized possession or sale is not sufficient to sustain a finding of guilt. The fact that the substance said to be illegally sold is the very same substance offered in court as exhibit must be established.^[53] (Emphasis in the original, citations omitted)

Since prosecutions under the Comprehensive Dangerous Drugs Act primarily revolve around the identity and integrity of the *corpus delicti*, compliance with its guidelines on the custody and disposition of the dangerous drugs seized is vital.^[54]

Here, the buy-bust operation allegedly happened on April 9, 2013, before Republic Act No. 9165 was amended by Republic Act No. 10641. Consequently, the original version of Section 21 applies here.

Section 21 of Republic Act No. 9165 provides:

SECTION 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 following manner:

- (1) The apprehending team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof;
- (2) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination[.]

Section 21 of the law's Implementing Rules and Regulations states: