

SECOND DIVISION

[G.R. No. 206767, September 11, 2019]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ORLANDO RAMOS ORDIZ, ACCUSED-APPELLANT.**

DECISION

CAGUIOA, J:

The campaign against dangerous drugs, no matter how relentlessly and vigorously it is pursued, can never be won by resorting to shortcuts, quick fixes, and convenient circumventions of the law. It can only be won through the conduct of well-prepared and well-organized operations that strictly comply with the mandatory requirements of the law. Otherwise, by disregarding the rule of law as a means of curtailing the proliferation of illegal drugs, the war on drugs becomes a self-defeating enterprise that ends up assaulting the very persons it aims to protect from harm — the Filipino people.

The Case

Before the Court is an ordinary appeal^[1] filed by accused-appellant Orlando Ramos Ordiz (accused-appellant Ordiz), assailing the Decision^[2] dated August 2, 2012 (assailed Decision) of the Court of Appeals, Cebu City (CA)^[3] in CA-G.R. CR HC No. 00895, which affirmed the Decision^[4] dated November 12, 2007 rendered by the Regional Trial Court of Cebu City, Branch 58 (RTC) in Criminal Case No. CBU-71128, entitled *People of the Philippines v. Orlando Ramos Ordiz*, finding accused-appellant Ordiz guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. (RA) 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002," as amended.

The Facts and Antecedent Proceedings

For allegedly selling a plastic sachet containing 0.03 gram of a white crystalline substance containing methamphetamine hydrochloride, commonly called *shabu*, in a buy-bust operation conducted by members of the Philippine National Police (PNP) at about 1:00 p.m. at Sampaguita Street, Barangay Capitol Site, Cebu City, accused-appellant Ordiz was charged with violation of Section 5, Article II of RA 9165.

The Information^[6] dated October 4, 2004 reads as follows:

That on October 3, 2004 at about 1:00 p.m. in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent and without being authorized by law, did then and there sell, deliver or give away to a poseur buyer the following:

one (1) [h]eat-sealed transparent plastic packet containing 0.03 gram of

white crystalline substance

locally known as "shabu" containing Methylamphetamine Hydrochloride, a dangerous drug.

Contrary to law.^[7]

As gathered from the testimonies of the prosecution's witnesses presented during the trial, namely, SPO1 Narciso Ursal, Jr. (SPO1 Ursal, Jr.), PO2 Raniel Capangpangan (PO2 Capangpangan), and SPO1 Rene Cerna (SPO1 Cerna),^[8] the prosecution's version of events is as follows:

In the afternoon of October 3, 2004, a buy-bust operation was conducted by members of the Philippine National Police (PNP) against accused Orlando Ordiz who was reported to be selling shabu in the Capitol area. During the entrapment, SPO1 Cerna, as the designated poseur-buyer, approached accused with the intention of purchasing P100.00 worth of *shabu* from him while SPO1 Ursal, Jr. and PO2 Capangpangan placed themselves at strategic positions while they waited for the pre-arranged signal of waving Cerna's hand that would indicate the consummation of the transaction. SPO1 Cerna, accompanied with a confidential asset, who knows the accused negotiated to buy P100.00 of *shabu*, which transaction was done in front of accused house. After the transaction was consummated, accused was arrested in the presence of his parents. He was informed of his constitutional rights and brought to the police station, along with the suspected shabu and the recovered buy-bust money. In the meantime, the crystallized substance that was bought from the accused was marked and brought to PNP Crime Laboratory for examination. The results revealed that the substance was positive for the presence of Methylamphetamine hydrochloride, a dangerous drug.

After the witnesses' testimonies, the prosecution formally offered their Exhibits "A" to "E" which were admitted by the trial court as part of the testimonies of the witnesses.^[9]

On his part, accused-appellant Ordiz vehemently denied the prosecution's version of the incident and alleged that he was a victim of police frame-up, asserting the following:

For his defense, [accused-appellant Ordiz] stated that he was at his girlfriend's house where he spent the night of October 3, 2004. He went back to his house at around 10:00 in the morning of the following day and ate lunch at a nearby eatery owned by one Abendan. While he was eating, Abendan and PO Vicente Diola were having a drinking spree at a table in front of him. The police officer told accused to come over and when he did, he was asked about the incident involving Abendan's store which was ransacked. When he denied any knowledge about the said incident, PO Diola called someone on his cellular phone. After some time, police officers arrived and took him to the police station.

Upon his arrival at the police station, police officers Capangpangan, Ursal and Cerna, who were with an unidentified civilian, asked him about the

ransacking incident of Abendan's store. When accused said he had no knowledge about such incident, he was boxed by one of the officers while officer Capangpangan hit him with a plastic chair. PO Diola, who also arrived at the police station, pointed a firearm towards the head of the accused. The officers also demanded the amount of P40,000.00 from accused and when he could not produce the money, he was detained without being informed of the nature of the charge against him.^[10]

The Ruling of the RTC

In its Decision^[11] dated November 12, 2007, the RTC found accused-appellant Ordiz guilty beyond reasonable doubt of violating Section 5, Article II of RA 9165.

The dispositive portion of the RTC's Decision reads:

Accordingly, this court finds the accused GUILTY as charged and hereby sentences him to Life Imprisonment and to pay a fine of P500,000.00.

The pack of shabu, Exh. "B", is confiscated in favor of the state for proper disposition.

SO ORDERED.^[12]

In sum, the RTC believed that the prosecution was able to fulfill its burden of proof in establishing all the essential elements of illegal sale of dangerous drugs under Section 5 of RA 9165.

Insisting on his innocence, accused-appellant Ordiz appealed before the CA.

The Ruling of the CA

In the assailed Decision,^[13] the CA affirmed the RTC's conviction of accused-appellant Ordiz. The dispositive portion of the assailed Decision reads:

WHEREFORE, the appeal is **DISMISSED** and the November 12, 2007 Decision rendered by the Regional Trial Court Branch 58, Cebu City is **AFFIRMED** *in toto*.

SO ORDERED.^[14]

The CA found that "the prosecution successfully proved the existence of all the essential elements of the illegal sale of the dangerous drug."^[15]

Hence, this appeal before the Court of Last Resort.

The Issue

For the Court's resolution is the issue of whether accused-appellant Ordiz is guilty beyond reasonable doubt for the crime charged.

The Court's Ruling

The foregoing question is answered overwhelmingly in the *negative*. A simple review of the records of the instant case would lead to the inescapable conclusion that *accused-appellant Ordiz's conviction is a travesty of justice*. The Court remedies this injustice and acquits accused-appellant Ordiz of the crime charged.

The essential elements of illegal sale of dangerous drugs

Accused-appellant Ordiz was charged with the crime of illegal sale of dangerous drugs, defined and penalized under Section 5 of RA 9165.

In order to convict a person charged with the crime of illegal sale of dangerous drugs under Section 5, Article II of RA 9165, the prosecution is required to prove the following elements: (1) **the identity of the buyer and the seller, the object and the consideration; and (2) the delivery of the thing sold and the payment therefor.**^[16]

The dearth of evidence establishing the elements of illegal sale of dangerous drugs in the instant case

It is an ancient principle of our penal system that no one shall be found guilty of crime except upon proof beyond reasonable doubt. Thus, in proving the existence of the aforesaid elements of the crime charged, the prosecution has the heavy burden of establishing the same. The prosecution must rely on the strength of its own evidence and not on the weakness of the defense.^[17]

In accordance with these principles, the Court has held that, considering the gravity of the penalty for the offense charged, courts should be careful in receiving and weighing the probative value of the testimony of an alleged poseur-buyer especially when it is not corroborated by any of his teammates in the alleged buy-bust operation. *Sheer reliance on the lone testimony of an alleged poseur-buyer in convicting the accused does not satisfy the quantum of evidence required in criminal cases, that is, proof beyond reasonable doubt.*^[18]

In the instant case, the prosecution relied on the testimonies of its three witnesses, *i.e.*, SPO1 Ursal, Jr., PO2 Capangpangan, and SPO1 Cerna.

A closer look at the testimonies of SPO1 Ursal, Jr. and PO2 Capangpangan reveal that they did not actually see firsthand the alleged sale of illegal drugs between accused-appellant Ordiz and the alleged poseur-buyer, SPO1 Cerna, as they were positioned at some considerable distance away from the area where SPO1 Cerna purportedly transacted with accused-appellant Ordiz.

In fact, the RTC itself made the observation that the testimonies of SPO1 Ursal, Jr., and PO2 Capangpangan are **unclear**, holding in its Decision that "[t]he declaration of SPO1 Narciso Ursal, Jr. and PO2 Raniel Capangpangan are **not clear** whether they actually saw the transaction or simply rushed up to arrest the accused after a pre-arranged signal was given"^[19]

Hence, with the testimonies of SPO1 Ursal, Jr. and PO2 Capangpangan being unreliable in establishing the elements of illegal sale, the RTC itself held that the prosecution's theory rested mainly on the testimony of SPO1 Cerna, the supposed poseur-buyer.

Making a critical observation on the testimony of SPO1 Cerna, the RTC itself noted that when SPO1 Cerna was directly examined by the prosecution, "[i]t **does appear that the details of the transaction are not clearly presented thru such testimony.**"^[20] And while the RTC found that SPO1 Cerna was eventually able to expound more on the supposed transaction on cross-examination, it must be emphasized that such testimony on the specific details of the drug transaction was left **uncorroborated** by the other witnesses' testimonies.

Simply stated, the prosecution's case hinged mostly on the uncorroborated testimony of the supposed poseur-buyer, whose testimony on direct examination was found by the RTC to be unclear and lacking in details. To reiterate, sheer reliance on the sole testimony of an alleged poseur-buyer fails to satisfy the quantum of evidence of proof beyond reasonable doubt.

For this reason alone, as there is reasonable doubt as to the elements of illegal sale of dangerous drugs, accused-appellant Ordiz's acquittal is warranted.

Blatant non-compliance with the chain of custody rule

Aside from the foregoing, the acquittal of accused-appellant Ordiz is likewise warranted due to the patent non-observance of the chain of custody rule.

In cases involving dangerous drugs, the State bears not only the burden of proving the aforesaid elements, but also of proving the *corpus delicti* or the body of the crime. In drug cases, the dangerous drug itself is the very *corpus delicti* of the violation of the law.^[21]

Therefore, considering that the very *corpus delicti* is the drug specimen itself, establishing the integrity of the specimen is imperative. Hence, compliance with the chain of custody rule is crucial in establishing the accused's guilt beyond reasonable doubt.

The chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. This would include testimony about every link in the chain, from the moment the item was picked up to the time it was offered in evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain. These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same.^[22]