

SPECIAL FIRST DIVISION

[G.R. No. 223712, September 11, 2019]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. VICTOR SUMILIP Y TILLO, ACCUSED-APPELLANT.

R E S O L U T I O N

LEONEN, J.:[*]

The Comprehensive Dangerous Drugs Act of 2002 spells out strict chain of custody requirements. Noncompliance with these requirements may only be excused upon a showing of justifiable grounds *and* specific measures taken by law enforcers to preserve the integrity of items allegedly seized from an accused. The prosecution's failure to demonstrate these amounts to its failure to establish the *corpus delicti* of drug offenses. The accused's acquittal must then ensue.

This Court resolves an appeal from the Decision^[1] of the Court of Appeals. The Court of Appeals affirmed the October 3, 2011 Decision of the Regional Trial Court, which convicted Victor Sumilip y Tillo (Sumilip) of the charge of illegal sale of dangerous drugs.^[2]

In an Information, Sumilip was charged with violation of Section 5 of Republic Act No. 9165,^[3] or the Comprehensive Dangerous Drugs Act, for the illegal sale of dangerous drugs. The Information read:

That on or about the 4th day of July 2009, in the City of San Fernando, Province of La Union, Philippines, and within the jurisdiction of this Honorable Court the above-named accused, without the necessary permit or authority from the proper governmental agency or office, did then and there, unlawfully and feloniously for and in consideration of the sum of money in the amount of FIVE HUNDRED Pesos (PHP500.00) Philippine Currency, sell and deliver FIFTY ONE point FIFTEEN (51.15) GRAMS OF Marijuana, a dangerous drug, wrapped in newspaper to PO2 Ricardo Annague who posed as buyer thereof using marked money, a five hundred pesos bill bearing serial No. CQ318210.

CONTRARY TO LAW.^[4] (Citation omitted)

On arraignment, Sumilip pleaded not guilty to the offense charged.^[5] During trial, the prosecution presented three (3) witnesses: (1) Police Officer 2 Ricardo Annague (PO2 Annague); (2) Police Officer 3 Paul Batnag (PO3 Batnag); and (3) Police Senior Inspector Anamelisa Bacani.^[6]

According to the prosecution, at about 1:00 p.m. on July 4, 2009, a confidential informant reported to PO2 Annague that a certain "Victor Sumilip" was selling illegal drugs along Ancheta Street, Catbangan, San Fernando City, La Union. A buy-bust team was then formed with PO2 Annague as the designated poseur-buyer and PO3

Batnag as back-up. A P500.00 bill was prepared as the buy-bust money. It was agreed on that PO2 Annague would remove his cap to signify to the rest of the team that the sale of drugs had been consummated.^[7]

The team later went to La Union Medical Diagnostic Center on Ancheta Street, where PO2 Annague and the informant approached Sumilip. After the informant had introduced PO2 Annague as an interested marijuana buyer, Sumilip took out of his left pocket marijuana leaves wrapped in newspaper and handed them to PO2 Annague. In exchange, PO2 Annague handed Sumilip the marked P500.00 bill. At this, PO2 Annague removed his cap, signaling the consummation of the sale. Then, with PO3 Batnag's aid, PO2 Annague arrested Sumilip and informed him of his constitutional rights.^[8]

Sumilip and the marijuana were then taken to the San Fernando Police Station. There, PO2 Annague marked, inventoried, and photographed the seized marijuana in the presence of Sumilip and some barangay officials. Thereafter, the marijuana was brought to the Philippine National Police Crime Laboratory for examination.^[9]

Sumilip, his sister Carla Maanes, and his cousin Julie Estacio, testified for the defense. From their testimonies, the defense alleged that while Sumilip was eating in a *turo-turo* restaurant on Ancheta Street at around 11:10 a.m. on July 4, 2009, two (2) men in civilian clothing approached and aimed a gun at him. After they had ordered Sumilip to get up, the men held his hand, frisked him, and searched his bag. They forced him to board a car and brought him to Tanqui Police Station. Later on, he was brought back to the restaurant where the two (2) men simulated his arrest for supposedly selling marijuana.^[10]

In its October 3, 2011 Decision,^[11] the Regional Trial Court found Sumilip guilty beyond reasonable doubt of illegal sale of dangerous drugs. The dispositive portion of this Decision read:

WHEREFORE, premises considered, accused VICTOR SUMILIP Y Tillio (*sic*) is hereby found GUILTY beyond reasonable doubt for violating Section 5, Article II of Republic Act No. 9165 and is sentenced to suffer the penalty of life imprisonment and a fine of five hundred thousand pesos (Php)500,000). (*sic*)

SO ORDERED.^[12] (Citation omitted)

In its assailed Decision,^[13] the Court of Appeals affirmed the Regional Trial Court Decision, as follows:

WHEREFORE, premises considered, the instant appeal is **DENIED**. The Decision dated October 3, 2011 of the Regional Trial Court (RTC) of San Fernando City, La Union, Branch 66 in Criminal Case No. 8384 is hereby **AFFIRMED**.

SO ORDERED.^[14] (Emphasis in the original)

In affirming Sumilip's conviction, the Court of Appeals reasoned that the prosecution demonstrated an unbroken chain of custody of the marijuana taken from Sumilip.^[15] It did not lend credence to Sumilip's denial and allegation of being framed.^[16]

Thus, Sumilip filed his Notice of Appeal.^[17]

In a February 14, 2018 Resolution,^[18] this Court's First Division dismissed Sumilip's appeal.

On June 14, 2018, Sumilip filed a Motion for Reconsideration.^[19] He maintains that the prosecution failed to show an unbroken chain of custody of the marijuana supposedly seized from him. He emphasizes that the prosecution failed to account for how the marijuana was handled upon seizure. He notes that the identity of the person who had custody of the marijuana from the place of his arrest to the police station was never disclosed.^[20]

Acting on the Motion for Reconsideration, this Court, in its August 28, 2019 Resolution,^[21] reinstated Sumilip's appeal.

For this Court's resolution is the issue of whether or not accused appellant Victor Sumilip y Tillo is guilty beyond reasonable doubt of the offense of illegal sale of dangerous drugs.

Conviction in criminal cases demands that the prosecution prove an accused's guilt beyond reasonable doubt.^[22] Rule 133, Section 2 of the Rules of Court provides:

SECTION 2. Proof beyond reasonable doubt. — In a criminal case, the accused is entitled to an acquittal, unless his guilt is shown beyond reasonable doubt. Proof beyond reasonable doubt does not mean such a degree of proof as, excluding possibility of error, produces absolute certainty. Moral certainty only is required, or that degree of proof which produces conviction in an unprejudiced mind.

This quantum of proof imposes upon the prosecution the burden to overcome the constitutional presumption of innocence.^[23] The prosecution must do so by presenting its own evidence, without relying on the weakness of the arguments and proof of the defense.^[24] This proceeds from the constitutional mandate of due process.^[25] In *Daayata v. People*:^[26]

Proof beyond reasonable doubt charges the prosecution with the immense responsibility of establishing moral certainty. The prosecution's case must rise on its own merits, not merely on relative strength as against that of the defense. Should the prosecution fail to discharge its burden, acquittal must follow as a matter of course.^[27]

II

Conviction for illegal sale of dangerous drugs requires proof of its elements:

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.^[28]

Establishing the *corpus delicti* requires strict compliance with the chain of custody requirements spelled out by the Comprehensive Dangerous Drugs Act. Section 21 of Republic Act No. 9165^[29] lists steps that must be observed from the moment of

seizure of drugs and drug paraphernalia to their examination until their presentation before a court:

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;
- (3) A certification of the forensic laboratory examination results, which shall be done under oath by the forensic laboratory examiner, shall be issued within twenty-four (24) hours after the receipt of the subject item/s: *Provided*, That when the volume of the dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals does not allow the completion of testing within the time frame, a partial laboratory examination report shall be provisionally issued stating therein the quantities of dangerous drugs still to be examined by the forensic laboratory: *Provided, however*, That a final certification shall be issued on the completed forensic laboratory examination on the same within the next twenty-four (24) hours;
- (4) After the filing of the criminal case, the Court shall, within seventy-two (72) hours, conduct an ocular

inspection of the confiscated, seized and/or surrendered dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals, including the instruments/paraphernalia and/or laboratory equipment, and through the PDEA shall within twenty-four (24) hours thereafter proceed with the destruction or burning of 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 DOJ, civil society groups and any elected public official. The Board shall draw up the guidelines on the manner of proper disposition and destruction of such item/s which shall be borne by the offender: *Provided*, That those item/s of lawful commerce, as determined by the Board, shall be donated, used or recycled for legitimate purposes: *Provided, further*, That a representative sample, duly weighed and recorded is retained;

- (5) The Board shall then issue a sworn certification as to the fact of destruction or burning of the subject item/s which, together with the representative sample/s in the custody of the PDEA, shall be submitted to the court having jurisdiction over the case. In all instances, the representative sample/s shall be kept to a minimum quantity as determined by the Board;
- (6) The alleged offender or his/her representative or counsel shall be allowed to personally observe all of the above proceedings and his/her presence shall not constitute an admission of guilt. In case the said offender or accused refuses or fails to appoint a representative after due notice in writing to the accused or his/her counsel within seventy-two (72) hours before the actual burning or destruction of the evidence in question, the Secretary of Justice shall appoint a member of the public attorney's office to represent the former;
- (7) After the promulgation and judgment in the criminal case wherein the representative sample/s was presented as evidence in court, the trial prosecutor shall inform the Board of the final termination of the case and, in turn, shall request the court for leave to turn over the said representative sample/s to the PDEA for proper disposition and destruction within twenty-four (24) hours from receipt of the same; and
- (8) Transitory Provision: a) Within twenty-four (24)