

FIRST DIVISION

[G.R. No. 244256, November 25, 2019]

PEOPLE OF THE PHILIPPINES PLAINTIFF-APPELLEE, VS. JOSEPH STA. CRUZ Y ILUSORIO, ACCUSED-APPELLANT.

DECISION

REYES, J. JR., J.:

On appeal is the August 29, 2018 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 10019 which affirmed the October 30, 2017 Joint Decision^[2] of the Regional Trial Court (RTC), Branch 72, Malabon City finding accused-appellant Joseph Sta. Cruz y Ilusorio (accused-appellant) guilty in both Criminal Case No. 10-1980-MN of violating Section 5, and in Criminal Case No. 10-1979-MN of violating Section 11, Article II of Republic Act (R.A.) No. 9165 or the Comprehensive Dangerous Drugs Act of 2002.

The Facts

Accused-appellant was charged with illegal possession of methamphetamine hydrochloride (*shabu*), committed as follows:

In Criminal Case No. 10-1979-MN

That on or about the 5th day of November 2010, in the City of Malabon, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being a private person and without authority of law, did, then and there, willfully, unlawfully and feloniously have in his possession, custody and control two (2) small heat-sealed transparent plastic sachets with markings "HAB/JSCI-2-11-5-10" containing 0.03 gram of white crystalline substance and "HAB/JSCI-3-11-5-10" containing 0.02 gram of white crystalline substance, which substance when subjected to qualitative examination gave positive result for Methylamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.^[3]

Accused-appellant was also indicted for illegal sale of *shabu*, committed as follows:

In Criminal Case No. 10-1980-MN

That on or about the 5th day of November 2010, in the City of Malabon, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being a private person and without authority of law, did, then and there, willfully, unlawfully and feloniously sell and deliver to [*poseur*]-buyer PO1 HERBERT A. BAGAIN, JR., in the

amount Php500.00 one (1) small heat-sealed transparent plastic sachet with markings "HAB/JSCI-1-11-5-10" containing 0.02 gram of white crystalline substance, which substance when subjected to qualitative examination gave positive result for Methylamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.^[4]

Upon arraignment, accused-appellant pleaded not guilty to the charges. Thereafter, trial on the merits ensued.

Version of the Prosecution

The prosecution presented Police Officer 2 Herbert Bagain, Jr. (PO2 Bagain), the *poseur*-buyer and apprehending officer and police Chief Inspector Stella S. Garciano (P/C Insp. Garciano), the forensic chemist as witnesses. Their combined testimonies tended to establish the following:

On November 5, 2010, at around 4:30 p.m., the police operatives at District Anti-Illegal Drugs, Northern Police District in Larangay, Caloocan City received information from a confidential informant that accused-appellant was engaged in the illegal drug trade.^[5]

After receiving such information, P/C Insp. Arnold Thomas C. Ibay immediately formed a buy-bust team and designated Deputy Officer P/C Insp. Leoben Ong as the leader and PO2 Bagain as the *poseur*-buyer. The team conducted a briefing and coordinated with the Philippine Drug Enforcement Agency for the conduct of the buy-bust operation on the same day.^[6]

At around 8:15 p.m. the same day, the team proceeded to the target area on Hito Street, Longos, Malabon City. PO2 Bagain intimated to accused-appellant his intention to buy P500.00 worth of *shabu*. He then handed to accused-appellant the buy-bust money while accused-appellant gave him a plastic sachet.^[7]

Then, PO2 Bagain turned his back and waved his umbrella as the prearranged signal. The team rushed to the scene and PO2 Bagain introduced himself to accused-appellant as a police officer. Thereafter, PO2 Bagain arrested and handcuffed accused-appellant and found two more plastic sachets containing white crystalline substance from the possession of accused-appellant. PO2 Bagain placed all the plastic sachets in his pocket.^[8]

Thereafter, the team proceeded to the police station for inquest proceedings. Thereat, PO2 Bagain made an inventory of the seized items which could not be done at the place of arrest because there were several persons at that time. The plastic sachets were then turned over to PO3 Ariosto Rana (PO3 Rana) who prepared the request for laboratory examination. A media representative was present at the police station when the inventory and markings were being made.^[9]

Together with PO3 Rana, PO2 Bagain brought the seized specimens to the Philippine National Police Crime Laboratory for qualitative examination. P/C Insp. Garciano received the request and the specimens. Upon laboratory examination, the

specimens tested positive for *shabu*.^[10]

Version of the Defense

Accused-appellant denied the accusations against him and averred that on November 5, 2010, at around 2:00 p.m., he was filling soil by the entry way of his mother's residence at Block 8, Lot 43, Hito Street, Longos, Malabon City. During his break, he decided to go outside to watch people playing *mahjong*. His son followed him and after a while, they saw several police officers pass by the area. Later on, the policemen returned to the area where he was standing. They held his arms and tried to bring him with them, but he resisted and asked why he was being apprehended. He finally acceded to their demands because the police officers were forcing him to go and he was afraid that he might get hurt. He was then brought to the Larangay police Station where he was detained.^[11]

The RTC Ruling

In a Joint Decision dated October 30, 2017, the RTC found accused-appellant guilty of illegal possession of *shabu*. It opined that possession of a dangerous drug constitutes a *prima facie* evidence of knowledge or *animus possidendi* sufficient to convict an accused in the absence of a satisfactory explanation of such possession. The trial court also handed a guilty verdict on accused-appellant for illegal sale of *shabu*. It declared that the prosecution was able to prove that the *shabu* subject of the cases are the same items purchased and seized from accused-appellant. The *fallo* reads:

WHEREFORE, in view of the foregoing[,] judgment is rendered as follows:

In Criminal Case No. 10-1979-MN for Violation of Section 11, Article II of Republic Act No. 9165, the accused JOSEPH STA. CRUZ y ILUSORIO is found GUILTY beyond reasonable doubt of the offense charged and is hereby sentenced to suffer the penalty of imprisonment of TWELVE (12) YEARS and ONE (1) DAY to FOURTEEN (14) YEARS and to pay a fine of Three Hundred Thousand Pesos (P300,000.00).

In Criminal Case No. 10-1980-MN for Violation of Section 5, Article II of Republic Act No. 9165, the accused JOSEPH STA. CRUZ y ILUSORIO is found GUILTY beyond reasonable doubt of the offense charged and is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and to pay a fine of FIVE HUNDRED THOUSAND (P500,000.00) PESOS.

All the specimen subject of these cases are forfeited in favor of the government to be disposed of under the rules governing the same.

SO ORDERED.^[12]

Aggrieved, accused-appellant elevated an appeal before the CA.

The CA Ruling

In a Decision dated August 29, 2018, the CA affirmed the RTC ruling. It agreed with the findings of the trial court that the prosecution adequately established all the

element of illegal sale of a dangerous drug as the collective evidence presented during the trial showed that a valid buy-bust operation was conducted. Likewise, all the elements of illegal possession of a dangerous drug were proven. The prosecution was able to demonstrate that the integrity and evidentiary value of the confiscated drugs were not compromised. The witnesses for the prosecution were able to testify on every link in the chain of custody, establishing the crucial link in the chain from the time the seized items were first discovered until they were brought for examination and offered in evidence in court. Thus, it disposed the case in this wise:

WHEREFORE, in view of the foregoing, the instant appeal is hereby DENIED. The Joint Decision dated October 30, 2017 of the Malabon City Regional Trial Court, Branch 72, in the cases docketed as Criminal Case No. 10-1979-MN and Criminal Case No. 10-1980-MN is AFFIRMED.

SO ORDERED.^[13]

Hence, this appeal. Accused-appellant and the People manifested that they would no longer file a Supplemental Brief, taking into account the thorough and substantial discussions of the issues in their respective appeal briefs before the CA. Accused-appellant reiterated that the buy-bust team failed to follow the procedure mandate in Section 21(1), Article II of R.A. No. 9165.

The Court's Ruling

The judgment of conviction is reversed and set aside and accused-appellant is acquitted of the crimes charged.

Chain of custody is a procedural mechanism that ensures that the identity and integrity of the *corpus delicti* are clear and free from any unnecessary doubt or uncertainty. It secures the close and careful monitoring and recording of the custody, safekeeping, and transfer of the confiscated illegal drug so as to preclude any incident of planting, tampering, or switching of evidence. The links in the chain, to wit.: (1) the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; (2) the turnover of the illegal drug seized by the apprehending officer to the investigating officer; (3) the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and (4) the turnover and submission of the marked illegal drug seized from the forensic chemist to the court must be adequately proved in such a way that no question can be raised as to the authenticity of the dangerous drug presented in court.^[14] Thus, in *Mallillin v. People*,^[15] the Court declared:

As a method of authenticating evidence, 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. It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered into 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.

Section 21(1), Article II of R.A. No. 9165 states:

SEC. 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[.] (Emphasis supplied)

Supplementing the above-quoted provision, Section 21(a) of the Implementing Rules and Regulations (IRR) of R.A. No. 9165 mandates:

SEC. 21. x x x

(a) The apprehending officer 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: *Provided*, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; *Provided, further*, that non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items[.] (Emphasis supplied)

On July 15, 2014, R.A. No. 10640 was approved to amend R.A. No. 9165, thus:

(1) The apprehending team having initial custody and control of the dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, immediately after seizure and confiscation, conduct a physical inventory of the seized items and photograph the same in the presence of the