

## THIRD DIVISION

[ G.R. No. 245972, December 02, 2019 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
MARTIN H. ASAYTUNO, JR. AND RENATO H. ASAYTUNO,  
ACCUSED-APPELLANTS.**

### DECISION

**LEONEN, J.:**

Law enforcers' failure to strictly comply with the Comprehensive Dangerous Drugs Act's chain of custody requirements engenders the prosecution's failure to establish the *corpus delicti* in drug offenses.<sup>[1]</sup> This is especially true for cases that involve miniscule amounts of dangerous drugs.<sup>[2]</sup> When there is doubt on the identity and integrity of the *corpus delicti*, an accused's acquittal must necessarily follow.<sup>[3]</sup>

This resolves an appeal from the assailed Decision<sup>[4]</sup> of the Court of Appeals in CA-G.R. CR-HC No. 08002. This Decision affirmed the Regional Trial Court's prior Decision<sup>[5]</sup> finding accused-appellants Martin H. Asaytuno, Jr. (Martin) and Renato H. Asaytuno (Renato) guilty beyond reasonable doubt of illegal sale of dangerous drugs, in violation of Section 5<sup>[6]</sup> of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002. The same Regional Trial Court Decision found Martin guilty beyond reasonable doubt of illegal possession of dangerous drugs, in violation of Section 11<sup>[7]</sup> of Republic Act No. No. 9165.

In an Information,<sup>[8]</sup> which was the subject of Criminal Case No. 15-547, Martin and Renato were charged with illegal sale of dangerous drugs, as follows:

The undersigned prosecutor accuses MARTIN ASAYTUNO JR. y HALILI @ Jun and RENATO ASAYTUNO y HALILI @ Ato of the crime of violation of REPUBLIC ACT 9165 sec. 5, committed as follows:

On the 25<sup>th</sup> day of February 2015, in the city of Makati, the Philippines, accused, conspiring and confederating together, without the necessary license or prescription and without being authorized by law, did then and there willfully, unlawfully and feloniously sell, deliver, and give away Methamphetamine Hydrochloride weighing zero point forty three (0.43) gram, a dangerous drug, in consideration of Php1,000.

CONTRARY TO LAW.<sup>[9]</sup>

In another Information,<sup>[10]</sup> which was the subject of Criminal Case No. 15-548, Martin was charged with illegal possession of dangerous drugs, as follows:

The undersigned prosecutor accuses MARTIN ASAYTUNO JR. y HALILI @ Jun of the crime of violation of REPUBLIC ACT 9165 sec. 11, committed as follows:

On the 25<sup>th</sup> day of February 2015, in the city of Makati, the Philippines, accused, not being lawfully authorized to possess or otherwise use any dangerous drug and without the corresponding license or prescription, did then and there willfully, unlawfully and feloniously have in his possession, direct custody and control a total of zero point twenty nine (0.29) grams of Methamphetamine Hydrochloride, a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW.

Upon arraignment, both Martin and Renato pleaded "not guilty" to the offenses charged.<sup>[11]</sup>

The prosecution presented the following as witnesses: (1) P/Insp. Crisanto Racoma (P/Insp. Racoma); PO2 Sherwin Limbauan (PO2 Limbauan); (2) PO1 Mario Pagulayan (PO1 Pagulayan); (3) Barangay Kagawad Virgilio S. Awit (Kagawad Awit); and (4) PCI May Andrea Bonifacio (PCI Bonifacio).<sup>[12]</sup>

According to the prosecution, following a report made on the drug activities of an alias "Jun" at Barangay East Rembo, Makati City, P/Supt. Mario Ignacio directed that a buy-bust operation be conducted. A briefing for the operation was held by P/Insp. Racoma at around 9:00 p.m. on February 24, 2015.<sup>[13]</sup> PO2 Limbauan was designated as the poseur-buyer, while PO1 Pagulayan was designated as the back-up operative. PO2 Limbauan was given a marked<sup>[14]</sup> P1,000.00 peso bill to be used as buy-bust money.<sup>[15]</sup>

Thereafter, PO1 Pagulayan coordinated with the Philippine Drug Enforcement Agency and secured Coordination Form No. 0215-00272.<sup>[16]</sup> However, upon verification with their informant, the buy-bust team learned that Jun was no longer in the area. Because of this, the team suspended the operation and instructed the informant to contact them once Jun is spotted in the area.<sup>[17]</sup>

At around 6:00 p.m. the following day, February 25, 2015, the informant called PO2 Limbauan and informed him that Jun was again seen in Barangay East Rembo. PO2 Limbauan and the rest of the buy-bust team then proceeded to 27<sup>th</sup> Avenue, Barangay East Rembo to meet with the informant. From there, PO2 Limbauan and the informant walked to the target area at 24<sup>th</sup> Avenue, Barangay East Rembo while the rest of the team formed a perimeter around the area.<sup>[18]</sup>

Upon reaching the area, PO2 Limbauan and the informant saw two (2) men standing together at a sidewalk. The informant identified the taller of the two (2) as Jun. When the informant and PO2 Limbauan approached the two (2) men, the informant introduced PO2 Limbauan as a friend looking to purchase shabu.<sup>[19]</sup>

Jun asked PO2 Limbauan on how much shabu he intended to buy to which PO2

Limbauan answered P1,000.00 worth. Jun then instructed his companion, alias "Ato," to receive the payment. PO2 Limbauan proceeded to hand Ato the marked P1,000.00 bill, while Jun gave PO2 Limbauan one (1) plastic sachet which appeared to contain shabu. Soon after, PO2 Limbauan pocketed the sachet and executed the pre-arranged signal by scratching his ear.<sup>[20]</sup>

At that moment, PO2 Limbauan grabbed both Jun and Ato, introduced himself as a police officer, and frisked Jun. He recovered the marked P1,000.00 bill along with two (2) other sachets of suspected shabu. Meanwhile, nothing was recovered from Ato.<sup>[21]</sup>

Jun was identified as Martin H. Asaytuno, Jr., while Ato was identified as Renato H. Asaytuno, the accused-appellants. PO2 Limbauan called for an elected barangay official for the conduct of inventory, but no one immediately came. When people began to gather around the area, the operatives decided to bring Martin and Renato, as well as the seized evidence, to the East Rembo Barangay Hall.<sup>[22]</sup>

At the barangay hall, an inventory was conducted in the presence of Kagawad Awit. The plastic sachet handed by Martin to PO2 Limbauan was marked "SCL." The sachets retrieved by PO1 Pagulayan while frisking Martin were marked "SCL-1" and "SCL-2." Photographs were then taken during the inventory.<sup>[23]</sup>

The Inventory Receipt was received by PO3 Voltaire Esguerra (PO3 Esguerra), who then prepared the Letter Requests for a Laboratory Examination and Drug Test.<sup>[24]</sup> PO3 Esguerra delivered the sachets to the Southern police District for a chemical analysis which was conducted by PCI Bonifacio.<sup>[25]</sup>

The chemistry report prepared by PCI Bonifacio indicated that the contents of all three sachets tested positive for shabu.<sup>[26]</sup>

Renato, Martin, and Martin's daughter, Meg Maxeem T. Asaytuno (Maxeem), testified for the defense.<sup>[27]</sup>

Testifying in his defense, Martin recalled that sometime between 12:00 and 12:30 a.m. on February 26, 2015, he was inside his room with his fifteen-year-old daughter, Maxeem, in their house at 179-B 24<sup>th</sup> Avenue, East Rembo, Makati City. He was then folding newly washed clothes while his brother, Renato, was asleep in another room.<sup>[28]</sup>

Suddenly, several persons who Martin later learned were police officers, entered the house. They were accompanied by an alias "Boteng." Martin was instantly grabbed, handcuffed, and frisked, after which his identification card and money worth P20,000.00 (given to him by another sibling) were taken from his wallet. The police officers demanded that Martin bring out shabu, but Martin denied having any.<sup>[29]</sup> After the police failed to locate any shabu inside Martin's room, they brought Martin outside where he saw Renato also handcuffed.<sup>[30]</sup>

Renato testified that on the same date and time, he was suddenly woken up by someone and found a gun pointed to his face. He was handcuffed by the same

person while another searched his room. They later identified themselves as police officers from the Station Anti-Illegal Drugs Special Operation Task Group of Makati City. When the police officers found nothing illegal among his belongings, he was brought out of his room and saw his brother, Martin, also handcuffed.<sup>[31]</sup>

Martin and Renato were brought out of their house and were forced to board a vehicle parked along 24<sup>th</sup> Avenue, East Rembo. They were then taken to the office of the Station Anti-Illegal Drugs Special Operation Task Group where they were detained.<sup>[32]</sup>

After trial, the Regional Trial Court rendered its Decision<sup>[33]</sup> convicting Martin and Renato. The dispositive portion of the Decision read:

WHEREFORE, judgment is hereby rendered:

1. In Criminal Case No. 15-547, finding accused MARTIN ASAYTUNO y HALILI @ "Jun" and RENATO ASAYTUNO y HALILI @ "Ato" GUILTY BEYOND REASONABLE DOUBT of the crime of Violation of Section 5 of R.A. 9165, judgment is hereby rendered sentencing them to suffer life imprisonment and to pay a fine of P500,000 pesos; and
2. In Criminal Case No. 15-548, finding the accused MARTIN ASAYTUNO y HALILI @ "Jun" GUILTY BEYOND REASONABLE DOUBT for Violation of Section 11 Article II of R.A. 9165, judgment is hereby rendered sentencing said accused to suffer imprisonment for an indeterminate term of twelve (12) years and one (1) day as minimum, to fourteen (14) years as maximum, to pay a fine of Php300,000.00 pesos (sic) and to pay the costs.

Let the zero point forty three (0.43) gram and zero point twenty nine (0.29) gram of methamphetamine hydrochloride (shabu) be turned over to PDEA for proper disposition.

SO ORDERED.<sup>[34]</sup>

In its assailed Decision,<sup>[35]</sup> the Court of Appeals sustained the Regional Trial Court in holding that all the elements of the offenses charged were proven beyond reasonable doubt.<sup>[36]</sup> It noted that even though the chain of custody requirements were not strictly complied with, deviations were founded on justifiable reasons. In any case, the seized items' integrity was maintained.<sup>[37]</sup> The dispositive portion of the Decision reads:

**WHEREFORE**, premises considered, the Consolidated Decision dated October 19, 2015 of the Regional Trial Court, Branch 135, Makati City in Criminal Cases No. 15-547 and 15-548 is **AFFIRMED** *in toto*.

**SO ORDERED.**<sup>[38]</sup> (Emphasis in the original)

Aggrieved, accused-appellants filed their Notice of Appeal,<sup>[39]</sup> which was given due course by the Court of Appeals.<sup>[40]</sup> In this Court's June 3, 2019 Resolution,<sup>[41]</sup> the parties were allowed to file supplemental briefs. Both the Office of the Solicitor

General<sup>[42]</sup> and accused-appellants<sup>[43]</sup> manifested that they were no longer intending to file Supplemental Briefs.

For this Court's resolution are the issues of: (1) whether or not accused-appellants Martin H. Asaytuno, Jr. and Renato H. Asaytuno are guilty beyond reasonable doubt of the offense of illegal sale of dangerous drugs; and (2) whether or not accused-appellant Martin H. Asaytuno, Jr. is guilty beyond reasonable doubt of the offense of illegal possession of dangerous drugs.

## I

To warrant a conviction, the offense charged against an accused must be proven beyond reasonable doubt.<sup>[44]</sup> An accused enjoys the constitutionally protected right to be presumed innocent, and cannot be convicted without the moral certainty occasioning proof beyond reasonable doubt.<sup>[45]</sup>

To convict accused-appellants, the prosecution must establish beyond reasonable doubt the following elements of the offense of illegal sale of dangerous drugs: "(1) the identity of the buyer and the seller, [identity of] the object, and consideration [of the sale]; and (2) the delivery of the thing sold and the payment therefor[.]"<sup>[46]</sup> As for the charge against Martin of illegal possession of dangerous drugs, the prosecution must establish beyond reasonable doubt: (1) the possession by the accused of an item or object identified to be a prohibited drug; (2) that the possession is not authorized by law; and (3) the free and conscious possession of the drug by the accused.<sup>[47]</sup>

In drug-related cases, the *corpus delicti* - the body of the offense - is the seized drugs themselves.<sup>[48]</sup> Specifically concerning illegal sale of dangerous drugs, *People v. Ameril* explained:<sup>[49]</sup>

*The illegal drug itself constitutes the corpus delicti of the offense. Its existence must be proved beyond reasonable doubt. "Proof beyond reasonable doubt demands that unwavering exactitude be observed in establishing the corpus delicti. The chain of custody rule performs this function as it ensures that unnecessary doubts concerning the identity of the evidence are removed."*<sup>[50]</sup> (Emphasis supplied)

The prosecution must establish that the drugs presented in court as evidence are the exact same drugs seized from the accused and examined by the crime laboratory.<sup>[51]</sup> This is not merely a matter of procedural formalities, but is a matter rooted in the very core of the crime's commission.<sup>[52]</sup> As this Court emphasized in *People v. Holgado*,<sup>[53]</sup> the failure of the prosecution to establish the identity and integrity of the drugs presented as evidence "naturally raises grave doubt about any search being actually conducted and warrants the suspicion that the prohibited drugs were planted evidence."<sup>[54]</sup>

Particularity with respect to *corpus delicti* in drug-related cases proceeds from the peculiar nature of narcotic substances. In *Mallillin v. People*:<sup>[55]</sup>