

SECOND DIVISION

[G.R. No. 225596, January 10, 2018]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V.
ALEXANDER ALVARO Y DE LEON AND ROSALIE GERONIMO Y
MADERA, ACCUSED-APPELLANTS.**

D E C I S I O N

PERLAS-BERNABE, J.:

Before the Court is an ordinary appeal^[1] filed by accused-appellants Alexander Alvaro y de Leon (Alvaro) and Rosalie Geronimo y Madera (Geronimo; collectively, accused-appellants) assailing the Decision^[2] dated September 11, 2014 of the Court of Appeals (CA) in CA-G.R. CR HC No. 05279, which affirmed the Decision^[3] dated September 7, 2010 of the Regional Trial Court of Makati City, Branch 64 (RTC) in Criminal Case No. 08-1044 finding accused-appellants guilty beyond reasonable doubt of violating Section 5,^[4] Article II of Republic Act No. (RA) 9165,^[5] otherwise known as the "Comprehensive Dangerous Drugs Act of 2002," and in Criminal Case No. 08-1045 finding Geronimo guilty beyond reasonable doubt of violating Section 11,^[6] Article II of RA 9165.

The Facts

The instant case stemmed from an Information^[7] filed before the RTC charging accused-appellants of violating Section 5, Article II of RA 9165, and another Information^[8] accusing Geronimo of violating Section 11 of the same law, viz.:

Criminal Case No. 08-1044

That on or about the 5th day of June 2008, in the City of Makati Philippines, and a place within the jurisdiction of this Honorable Court, the above-named accused [Alvaro and Geronimo], conspiring and confederating together and both of them mutually helping and aiding one another, not being lawfully authorized by law, did then and there willfully, unlawfully and feloniously sell, distribute and transport zero point zero three (0.03) gram of Methylamphetamine hydrochloride which is a dangerous drug, in consideration of five hundred (P500.00) pesos.

CONTRARY TO LAW.^[9]

Criminal Case No. 08-1045

That on or about the 5th day of [June] 2008, in the City of Makati Philippines and a place within the jurisdiction of this Honorable Court, the above-named accused [Geronimo], not being lawfully authorized to possess any dangerous drug and without the corresponding license or

prescription did then and there willfully, unlawfully and feloniously have in her possession[,] direct custody and control zero point zero one (0.01) gram of Methylamphetamine hydrochloride, which is a dangerous drug.

CONTRARY TO LAW.^[10]

The prosecution alleged that at about 5:30 in the afternoon of June 5, 2008, after receiving a tip from a confidential informant about the drug peddling activity of an alias "Betchay," later identified as Geronimo, a team composed of Makati Anti-Drug Abuse Council (MADAC) and Station Anti Illegal Drugs - Special Operation Task Force (SAID-SOTF) operatives proceeded to the Laperal Compound, Brgy. Guadalupe Viejo, Makati City. MADAC Operative Juan S. Siborboro, Jr.^[11] (Siborboro) was designated as the poseur-buyer, while the rest of the team composed of PO3 Rafael J. Castillo (PO3 Castillo), PO2 Jaime Orante, Jr. (PO2 Orante), PO1 Percival Mendoza, and the other operatives acted as back-up.^[12]

At the target area, Siborboro was introduced by the informant to Geronimo, who asked the former how much he intended to buy. Siborboro then handed the marked P500.00 bill to Geronimo, who, in turn, gave the same to her companion, Alvaro, who was about three (3) meters away. Thereafter, Geronimo took out two (2) plastic sachets of suspected *shabu*, and handed one to Siborboro. Upon receipt of the sachet, Siborboro gave the pre-arranged signal by lighting a cigarette and throwing it, prompting the back-up officers to rush in and arrest accused-appellants.^[13]

Siborboro confiscated the remaining plastic sachet containing suspected drugs from Geronimo, while PO3 Castillo recovered the buy-bust money from Alvaro. Siborboro immediately marked the sachet subject of the sale with "JSJR," and the sachet he recovered from Geronimo with "JSJR-1."^[14] He also prepared an inventory^[15] of the seized items, which was signed by PO3 Castillo and Barangay Chairman Ernesto Bobier (Brgy. Chairman Bobier) as witnesses.^[16] Accused-appellants were brought to the SAID-SOTF office, where the seized items were turned over to the investigator, PO1 Randy C. Santos (PO1 Santos), who then prepared the request for laboratory examination^[17] and submitted the seized sachets to the PNP Crime Laboratory. Forensic chemist Police Senior Inspector (S/Insp.) Engr. Richard Allan B. Mangalip (S/Insp. Mangalip) examined^[18] the specimen, which tested positive for methylamphetamine hydrochloride or *shabu*, a dangerous drug.^[19]

In her defense, Geronimo maintained that at around 5 or 6 o'clock in the afternoon of June 5, 2008, she was resting at her uncle's house at the Laperal Compound, Bernardino Street, Guadalupe Viejo, Makati City, when suddenly, several men barged inside. One of the men told her "*manahimik ka diyang kung ayaw mong masaktan*," while the others searched the house. When the men found nothing, they frisked Geronimo and took her mobile phone, wallet, and a promissory note from a hospital. Afterwards, they ordered her to bring out her companions and the items she was allegedly hiding, to which she replied "*anong ilalabas ko, anong tinatago ko?*" The men then took Geronimo out of the house where they encountered Alvaro. Together, they were brought inside a van where they were invited for questioning. At the SAID-SOTF office, accused-appellants were investigated, and brought to the laboratory for drug testing. However, since the chemist was not present, they were merely made to sign a document; after which, they were returned to the MADAC office.^[20]

Upon arraignment, accused-appellants pleaded not guilty to the charges leveled against them.^[21]

The RTC Ruling

In a Decision^[22] dated September 7, 2010, the RTC found: (a) accused-appellants guilty beyond reasonable doubt of violating Section 5, Article II of RA 9165 for illegal sale of dangerous drugs, thereby sentencing them to suffer the penalty of life imprisonment and to pay a fine in the amount of P500,000.00 each in Criminal Case No. 08-1044; and (b) Geronimo guilty beyond reasonable doubt of violating Section 11, Article II of RA 9165 for illegal possession of dangerous drugs, thereby sentencing her to suffer the penalty of imprisonment for an indeterminate period of twelve (12) years and one (1) day to fifteen (15) years and to pay a fine in the amount of P400,000.00 in Criminal Case No. 08-1045.^[23]

The RTC held that the prosecution was able to prove the presence of the respective elements of illegal sale and illegal possession of dangerous drugs. It observed that Siborboro positively identified accused-appellants as the persons from whom he purchased P500.00 worth of *shabu*, and found that Geronimo had in her possession another sachet of *shabu*, which was retrieved from her upon arrest. On the other hand, the RTC gave no credence to the defense of denial, frame-up, and alibi raised by accused-appellants for failure to substantiate the same.^[24]

Aggrieved, accused-appellants appealed^[25] their case to the CA.

The CA Ruling

In a Decision^[26] dated September 11, 2014, the CA affirmed the RTC ruling *in toto*,^[27] finding that the prosecution had indeed established the accused-appellants' guilt beyond reasonable doubt for the crimes charged. Moreover, the CA observed that the integrity and evidentiary value of the seized drugs were preserved and the chain of custody over them remained unbroken, notwithstanding the fact that some of the procedural requirements in Section 21, Article II of RA 9165 were not faithfully observed, as well as the typographical error in the marking of one of the seized items.^[28]

Hence, the instant appeal.

The Issue Before the Court

The issue for the Court's resolution is whether or not accused-appellants' convictions for violation of Section 5, Article II of RA 9165, and Geronimo's conviction for violation of Section 11, Article II of RA 9165 should be upheld.

The Court's Ruling

At the outset, it must be stressed that an appeal in criminal cases opens the entire case for review, and it is the duty of the reviewing tribunal to correct, cite, and appreciate errors in the appealed judgment whether they are assigned or unassigned.^[29] The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.^[30]

In this case, accused-appellants were charged with illegal sale of dangerous drugs under Section 5, Article II of RA 9165, which has the following elements: (a) the identities of the buyer and the seller, the object, and the consideration; and (b) the delivery of the thing sold and the payment.^[31] In addition, Geronimo was charged with illegal possession of dangerous drugs, the elements of which are: (a) the accused was in possession of an item or object identified as a dangerous drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug.^[32] According to the tribunals a quo, all these elements were proven in these cases.

Notably, however, in order to secure a conviction for the foregoing crimes, it remains essential that the identity of the confiscated drugs be established beyond reasonable doubt. To obviate any unnecessary doubts on the identity of the dangerous drugs, the prosecution has to show an unbroken chain of custody over the same. It must **be able to account for each link in the chain of custody over the dangerous drug, from the moment of seizure up to its presentation in court as evidence of the *corpus delicti*.**^[33]

Section 21, Article II of RA 9165 provides the chain of custody rule, outlining the procedure police officers must follow in handling the seized drugs, in order to preserve their integrity and evidentiary value.^[34] Under the said section, the apprehending team shall, **immediately after seizure and confiscation, conduct a physical inventory and photograph the seized items in the presence of the accused or the person from whom the items were seized, his 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 of the same; also, the seized drugs must be turned over to the PNP Crime Laboratory within twenty four (24) hours from confiscation for examination.**^[35]

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.^[36] However, for this saving clause to apply, **the prosecution must explain the reasons behind the procedural lapses, and that the integrity and evidentiary value of the seized evidence had nonetheless been preserved.**^[37] The justifiable ground for non-compliance must be proven as a fact, because the Court cannot presume what these grounds are or that they even exist.^[38]

In this case, accused-appellants point out^[39] unexplained breaks in the links in the custody of the confiscated drugs which, to them, constitute flagrant and procedural lapses and obvious evidentiary gaps that are fatal to the prosecution's case.^[40] Accordingly, they pray for their acquittal.^[41]

The appeal is meritorious.

The Court concurs with accused-appellants that indeed, numerous lapses, and even inconsistencies, taint the prosecution's account of how the arresting officers handled the subject confiscated drugs, to wit:

First. With respect to the place of marking, Siborboro testified that he immediately marked and inventoried the seized items at the place of arrest.^[42] This was, however, contradicted by PO3 Castillo who testified that they did not prepare the inventory at the place of the arrest since Laperal Compound was teeming with people; instead, they conducted the inventory along EDSA, at the trunk of the service vehicle.^[43]

Second. The prosecution failed to show that the inventory was made in the presence of the accused as required by law. The presence of the required witnesses, *i.e.*, the representatives from the media and the DOJ, and any elected official, was also not established. While records show that Brgy. Chairman Bobier had signed the inventory receipt, based on Siborboro's own statement, the former was not present when the same was prepared and that it was only brought to his office for signature.^[44] For his part, PO3 Castillo testified that the apprehending team immediately returned to their office right after the inventory and preservation marking, without passing by any other place. He also contradicted his previous statement that the inventory was made along EDSA, when he later stated that Brgy. Chairman Bobier signed the inventory receipt at the place of arrest.^[45]

Third. The prosecution failed to show that the seized items were photographed. While Siborboro could not recall if photographs of the seized items were taken,^[46] PO3 Castillo testified that the items were photographed by a designated photographer.^[47] Unfortunately, the records do not support PO3 Castillo's claim as the prosecution did not offer the photographs of the seized items as evidence.^[48]

Fourth. The sachet subject of the sale was purportedly marked by Siborboro as "JSJR" and the other sachet confiscated from Geronimo was marked as "JSJR-1."^[49] However, the crime laboratory's report shows that S/Insp. Mangalip, the forensic chemist, examined two (2) sachets, one marked "JSJRND" and the other "JSJR-1."^[50] Instead of presenting PO1 Santos- as the receiving investigator - and S/Insp. Mangalip, the prosecution stipulated upon and dispensed with their testimonies.^[51] The stipulation was, in fact, limited to the fact "[t]hat the white crystalline substance contained in a transparent plastic sachet with markings 'JSJR and JSJR-1' were submitted to the PNP Crime Laboratory Office together with the Request for Laboratory Examination."^[52] Consequently, no witness could explain the provenance of the sachet "JSJRND" and the whereabouts of the sachet "JSJR" after the same were left to the custody of PO1 Santos. Neither did the prosecution justify if the said discrepancy was a mere typographical error.

Fifth. The records reveal that the request for laboratory examination was not delivered by PO1 Santos but by a certain Serrano.^[53] Siborboro and PO3 Castillo both failed to explain how Serrano came to possess the seized items, while PO2 Orante's testimony^[54] shows that he had no personal knowledge of the arrest and what transpired thereafter. With PO1 Santos's testimony stipulated upon and dispensed with, no witness was able to explain how Serrano came to have custody over the seized items.

In view of the unaccounted gap in the chain of custody and the multiple unrecognized and unjustified departures of the police officers from the established procedure set under Section 21, Article II of RA 9165 and its Implementing Rules and Regulations, the Court therefore concludes that the integrity and evidentiary