

SECOND DIVISION

[G.R. No. 219953, April 23, 2018]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V.
ANGELITA REYES Y GINOVE AND JOSEPHINE SANTA MARIA Y
SANCHEZ, ACCUSED-APPELLANTS.**

D E C I S I O N

PERALTA, J.:

This is an appeal of the Court of Appeals' (CA) Decision^[1] dated January 13, 2015 dismissing accused-appellants' appeal and affirming the Decision^[2] dated June 24, 2011 of the Regional Trial Court, Branch 82, Quezon City (RTC) in Criminal Case No. Q-06-143175 convicting accused-appellants of Violation of Section 5, Article II, Republic Act (R.A.) No. 9165.

The facts follow.

On September 22, 2006, around 4 o'clock in the afternoon, P/Insp. Alberto Gatus of the Galas Police Station – Anti-Illegal Drugs Unit received a report from a confidential informant about the activities of an alias "Babang" at No. 13 Manungal Street, Barangay Tatalon, Quezon City. On the following day, around 4:30 in the afternoon, the chief of police dispatched some policemen to confirm the veracity of the information, conduct a surveillance and a buy-bust operation. P/Insp. Gatus gave PO2 Talosig two (2) P100 bills, which he marked with his initials. When they arrived at the place, the confidential informant told PO2 Talosig that the person standing in front of the house is alias "Babang," later identified as appellant Angelita Reyes. The informant introduced PO2 Talosig to appellant Reyes as a buyer of shabu. When appellant Reyes asked him how much he will buy, he replied P200.00. Appellant Josephine Santa Maria, who was standing beside appellant Reyes, asked for money. When PO2 Talosig gave appellant Santa Maria the marked money, she told appellant Reyes, "*bigyan mo na.*" Appellant Reyes then got a plastic sachet containing a crystalline substance from her right pocket. PO2 Talosig removed his cap, the pre-arranged signal that the transaction was consummated, and PO1 Mirasol Lappay, SPO1 Mario Abong, PO2 Jonathan Caranza, Insp. Alberto Gatus and another policeman swooped in. PO1 Lappay asked appellant Santa Maria to empty her pockets and retrieved the marked money from the right pocket. PO1 Lappay then placed appellant Santa Maria under arrest, while PO2 Talosig arrested appellant Reyes, keeping the seized plastic sachet in his possession. Appellants were informed of their violation and their rights. Thereafter, appellants and the seized evidence were brought to the police station. At the police station, PO2 Talosig placed the seized evidence in another plastic sachet, sealed it and marked it "DT-AR-JS." An inventory of seized items and request for laboratory examination were prepared by PO1 Erwin Bautista, while PO2 Talosig took the photo of appellants and the seized evidence. Thereafter, PO2 Talosig brought the request for laboratory examination

and the seized plastic sachet of suspected shabu to the Quezon City Police District Crime Laboratory. He was furnished a copy of Chemistry Report No. D-381-2006.

Thus, an Information^[3] was filed against the appellants for violation of Section 5, Article II of R.A. No. 9165 that reads as follows:

That on or about the 23rd day of September 2006 in Quezon City, accused conspiring and confederating with and mutually helping each other without lawful authority did then and there wilfully and unlawfully sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport, or act as broker in the said transaction, a dangerous drug, to wit:

Zero point zero two (0.02) grams of Methylamphetamine Hydrochloride.

CONTRARY TO LAW.

Appellants denied the allegations against them. According to appellant Reyes, on September 23, 2006, around 10 o'clock in the morning, she was sleeping with her husband and children in their house when someone knocked on their door. Her daughter woke her up and as she rose, three (3) men asked her if she knew a certain "Bugoy," to which query she replied in the negative. The men brought her out of the street, was made to board a jeep and then brought to the Galas Police Station. At the police station, she was again asked whether she knew a certain Bugoy and she insisted that she did not know this certain Bugoy. Thus, she was detained. Meanwhile, on the same date, appellant Santa Maria claimed that he left her house to sell rugs when PO2 Talosig and two (2) other policemen accosted her and asked if she knew a person running by. She answered "no." After about five minutes, she was brought to a passenger jeep where PO1 Lappay and the driver were waiting. PO2 Talosig arrived with appellant Reyes. The policemen then asked her if she knew a certain Ray, and when she replied in the negative, they were brought to the police station.

The RTC found appellants guilty beyond reasonable doubt of the crime charged and sentenced them to the following:

WHEREFORE, premises considered, judgment is hereby rendered finding accused ANGELITA REYES y GINOVE and JOSEPHINE SANTA MARIA y SANCHEZ guilty beyond reasonable doubt of violation of Section 5, Article II, of R.A. No. 9165, otherwise known as the Comprehensive Dangerous Act of 2002.

Accordingly, they are hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and to each pay a fine in the amount of Five Hundred Thousand (P500,000.00) PESOS.

The Branch Clerk of Court is hereby directed to transmit to the Philippine Drug Enforcement Agency the dangerous drug subject hereof for proper disposition and final disposal.

SO ORDERED.^[4]

The RTC ruled that appellants were validly arrested through a buy-bust operation and that appellants' denials are weak and unsubstantiated.

The CA affirmed the decision of the RTC *in toto*, thus:

WHEREFORE, the appeal is DISMISSED. The Decision dated June 24, 2011, issued by the Regional Trial Court, Branch 82, Quezon City in Criminal Case No. Q-06-143175 is AFFIRMED.

SO ORDERED.^[5]

The CA ruled that the illegal sale of *shabu* has been established beyond reasonable doubt. It also ruled that the defense of denial should be looked with disfavor for they are easily concocted but difficult to prove, especially the claim that one has been the victim of a frame-up. The CA also ruled that appellants' arrest was valid and there was a necessity to conduct a buy-bust operation. Finally, it ruled that there is no broken chain of custody of the recovered dangerous drugs.

Hence, the present appeal. Pending appeal, appellant Reyes passed away, hence, her appeal was dispensed with by this Court in its Resolution^[6] dated February 15, 2016.

The errors presented in the appeal are the following:

I.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANTS FOR THE CRIME CHARGED WHEN THEIR GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.

II.

THE TRIAL COURT GRAVELY ERRED IN FINDING THE PROSECUTION EVIDENCE TO BE ADMISSIBLE DESPITE BEING THE RESULT OF AN INVALID WARRANTLESS SEARCH AND ARREST.

According to appellant Santa Maria, her guilt was not proven beyond reasonable doubt and that the trial court erred in finding the prosecution evidence to be admissible despite being the result of an invalid warrantless search and arrest.

There is merit in the appeal.

First of all, as to the argument of appellant Santa Maria that the arresting officers illegally arrested them because they did not have with them any warrant of arrest nor a search warrant considering that the police officers had enough time to secure such, the same does not deserve any merit. Buy bust operations are legally sanctioned procedures for apprehending drug peddlers and distributors. These operations are often utilized by law enforcers for the purpose of trapping and capturing lawbreakers in the execution of their nefarious activities.^[7] There is no textbook method of conducting buy-bust operations. A prior surveillance, much less a lengthy one, is not necessary, especially where the police operatives are accompanied by their informant during the entrapment.^[8] Hence, the said buy-bust operation is a legitimate, valid entrapment operation.

As to whether the prosecution was able to prove appellants' guilt beyond reasonable doubt, this Court finds that the prosecution failed to do so.

Under Article II, Section 5 of R. A. No. 9165 or illegal sale of prohibited drugs, in order to be convicted of the said violation, the following must concur:

(1) the identity of the buyer and the seller, the object of the sale and its consideration; and (2) the delivery of the thing sold and the payment therefor.^[9]

In illegal sale of dangerous drugs, it is necessary that the sale transaction actually happened and that "the [procured] object is properly presented as evidence in court and is shown to be the same drugs seized from the accused."^[10]

In illegal sale, the illicit drugs confiscated from the accused comprise the *corpus delicti* of the charges.^[11] In *People v. Gatlabayan*,^[12] the Court held that it is of paramount importance that the identity of the dangerous drug be established beyond reasonable doubt; and that it must be proven with certitude that the substance bought during the buy-bust operation is exactly the same substance offered in evidence before the court. In fine, the illegal drug must be produced before the court as exhibit and that which was exhibited must be the very same substance recovered from the suspect.^[13] Thus, the chain of custody carries out this purpose "as it ensures that unnecessary doubts concerning the identity of the evidence are removed."^[14]

To ensure an unbroken chain of custody, Section 21 (1) of R.A. No. 9165^[15] specifies:

(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 persons 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.

Supplementing the above-quoted provision, Section 21 (a) of the IRR of R.A. No. 9165 provides:

(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[.]

On July 15, 2014, R.A. No. 10640 was approved to amend R.A. No. 9165. Among other modifications, it essentially incorporated the saving clause contained in the IRR, 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 accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, with an elected public official and a representative of the National Prosecution Service or the media 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, finally, That noncompliance of 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 and custody over said items.

In her Sponsorship Speech on Senate Bill No. 2273, which eventually became R.A. No. 10640, Senator Grace Poe admitted that "while Section 21 was enshrined in the comprehensive Dangerous Drugs Act to safeguard the integrity of the evidence acquired and prevent planting of evidence, the application of said section resulted in the ineffectiveness of the government's campaign to stop increasing drug addiction and also, in the conflicting decisions of the courts."^[16] Specifically, she cited that "compliance with the rule on witnesses during the physical inventory is difficult. For one, media representatives are not always available in all corners of the Philippines, especially in more remote areas. For another, there were instances where elected barangay officials themselves were involved in the punishable acts apprehended."^[17] In addition, "[t]he requirement that inventory is required to be done in police station is also very limiting. Most police stations appeared to be far from locations where accused persons were apprehended."^[18]

Similarly, Senator Vicente C. Sotto III manifested that in view of the substantial number of acquittals in drug-related cases due to the varying interpretations of the prosecutors and the judges on Section 21 of R.A. No. 9165, there is a need for "certain adjustments so that we can plug the loopholes in our existing law" and "ensure [its] standard implementation."^[19] In his Co-sponsorship Speech, he noted:

Numerous drug trafficking activities can be traced to operations of highly organized and powerful local and international syndicates. The presence of such syndicates that have the resources and the capability to mount a counter-assault to apprehending law enforcers makes the requirement of Section 21(a) impracticable for law enforcers to comply with. It makes