

## THIRD DIVISION

[ G.R. No. 224588, July 04, 2018 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RODEL BELMONTE Y SAA, ACCUSED-APPELLANT.**

### DECISION

**MARTIRES, J.:**

For resolution is the appeal of accused-appellant Rodel Belmonte y Saa assailing the 21 January 2016 Decision<sup>[1]</sup> of the Court of Appeals (CA), Twenty-First Division, in CA-G.R. CR HC No. 01147-MIN which affirmed, with modification as to imposable penalty in Criminal (*Crim.*) Case Nos. 2010-713 and 2010-714, the 18 February 2013 Judgment<sup>[2]</sup> of the Regional Trial Court, (RTC) Branch 25, Misamis Oriental, finding him guilty beyond reasonable doubt of Violation of Sections (Sec.) 11 and 5, Article (Art.) II of Republic Act (R.A.) No. 9165.<sup>[3]</sup>

### THE FACTS

The accused-appellant was charged before the RTC of Misamis Oriental with violation of R.A. No. 9165, viz:

#### CRIM. CASE NO. 2010-713

That on or about 12:50 p.m. of July 3, 2010 at Barra, Macabalan, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law to possess or use any dangerous drug, did then and there wilfully, unlawfully, criminally, and knowingly have in his possession, custody, and control, two heat-sealed transparent plastic sachets containing methamphetamine hydrochloride weighing 0.05 gram and 0.05 gram, respectively, accused well knowing that the substances recovered from his possession were dangerous drugs.

Contrary to Sec. 11, paragraph 2(3), Art II of R.A. No. 9165.<sup>[4]</sup>

#### CRIM. CASE NO. 2010-714

That on or about 12:50 p.m. of July 3, 2010 at Barra, Macabalan, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law to sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit, or transport any dangerous drugs, did then and there wilfully, unlawfully, criminally, and knowingly sell and/or offer

for sale, and give away to a poseur-buyer one small heat-sealed transparent plastic sachet containing methamphetamine hydrochloride, a dangerous drug, weighing 0.04 gram, accused knowing the same to be a dangerous drug, in consideration of P500.00.

Contrary to Sec. 5, Art. II of R.A. No. 9165.<sup>[5]</sup>

When arraigned, the accused-appellant pleaded not guilty<sup>[6]</sup> on both charges hence, joint trial proceeded.

To prove the charges against the accused-appellant, the prosecution called to the witness stand SPO1 Gilbert Sabellina (*Sabellina*), PO1 Linard Carna (*Carna*), and PO2 Jonrey Satur (*Satur*).

The accused-appellant testified in his own defense.

### ***The Version of the Prosecution***

On 3 July 2010, a confidential informant (*informant*) came to the Philippine National Police (*PNP*), Station 5, Macabalan, Cagayan de Oro City, to inform precinct commander Gilbert Mejares Rollen (*Rollen*) that the accused-appellant was engaged in the selling of drugs in Barra, Macabalan. Upon receipt of the information, Rollen instructed the above police officers to conduct a buy-bust operation. In preparation for the operation, Sabellina affixed his signature on the P500.00<sup>[7]</sup> bill with serial number ZG385391 to be used as buy-bust money, while Carna recorded<sup>[8]</sup> in the police blotter the use of the said marked money for the buy-bust. The pre-operation report<sup>[9]</sup> was also prepared and submitted to the Philippine Drug Enforcement Agency (*PDEA*).<sup>[10]</sup>

At about 1:30 p.m. of that same day, the police officers and the informant proceeded to Barra. When they arrived there, Sabellina positioned himself about ten meters away from Carna and the informant while Satur, who would act as backup, stayed at a distance. When the informant saw the accused-appellant, he approached him and asked if he would buy P500.00 worth of shabu. After receiving the P500.00 buy-bust money from the informant, the accused-appellant got a sachet containing a white crystalline substance from his right pocket and gave it to the informant. At that instance, Carna, who was beside the informant, introduced himself as a police officer to the accused-appellant while Sabellina and Satur advanced toward them. The accused-appellant was handcuffed and bodily frisked by Carna who found the following: from his right pocket, two sachets containing a white crystalline substance and the P500.00 buy-bust money; and from his left pocket, another four sachets containing traces of a white crystalline substance. The accused-appellant sat between Carna and Sabellina on the latter's motorcycle going back to the police station; the informant rode on Cama's motorcycle. Carna was in possession of the confiscated items from the scene of the crime until they reached the police station.

<sup>[11]</sup>

At the police station, Carna, in the presence of Sabellina, Rollen, and the accused-appellant, placed the markings "A LBC"<sup>[12]</sup> on the sachet handed by the accused-

appellant to the informant; "B LBC"<sup>[13]</sup> and "B1 LBC"<sup>[14]</sup> on the two sachets found in the Accused-appellant's right pocket; and "C LBC," "C1 LBC," "C2 LBC," and "C3 LBC" on the four sachets found in his left pocket. The letters "LBC"; stood for Carna's initials, i.e., "Linard Bahian Carna." Instead of the inventory and the taking of pictures of the confiscated items, Carna recorded in the police blotter the buy-bust operation report.<sup>[15]</sup> Thereafter, Rollen signed the requests<sup>[16]</sup> for the laboratory examination of the seven confiscated sachets and the urine test of the accused-appellant. The requests and the confiscated items were delivered by Carna and Satur to the crime laboratory (*laboratory*) at Camp Evangelista, Patag, Cagayan de Oro. Carna was in possession of the confiscated items from the police station to the laboratory. However, because Carna was not in uniform that time, Satur<sup>[17]</sup> had the items received by the laboratory. At the police station, Carna and Sabellina executed their joint affidavit<sup>[18]</sup> pertinent to the buy-bust operation.<sup>[19]</sup>

On that same day, Police Senior Inspector Emma C. Salvacion completed her examination on the confiscated items. Her findings, contained in Chemistry Report No. D-139-2010,<sup>[20]</sup> are:

A- Three heat-sealed transparent sachets with markings "A LBC," "B LBC," and "B1 LBC" all with signatures and each contains white crystalline substance with the following corresponding net weights"

A-1 (A LBC) = 0.04 gram A-2 (B-LBC) = 0.05 gram A-3 (B1 LBC) = 0.05 gram

B – Four unsealed transparent plastic sachets with markings "C LBC," "C1 LBC," "C2 LBC," and "C3 LBC" all with signatures and each contains traces of white crystalline substance further marked as B-1 to B-4, respectively. x x x

x x x

#### FINDINGS:

Qualitative examination conducted on the above-stated specimens all gave POSITIVE results to the presence of Methamphetamine Hydrochloride (Shabu), a dangerous drug.

### ***The Version of the Defense***

At about 11:30 a.m. on 3 July 2010, the accused-appellant was at his mother's house at Barra to pawn his live-in partner's cellphone. When his mother declined as she did not have any money, the accused-appellant proceeded to his cousin's house which was adjacent to his mother's house. While the accused-appellant was waiting inside his cousin's house, Sabellina started kicking the door from the outside and thereafter entered the house with Carna and Satur. Carna hit the accused-appellant in his stomach and asked him, "Where is the *shabu*?" The accused-appellant was frisked but when the three police officers did not find anything on him, they

proceeded to his cousin's bedroom and upon coming out therefrom showed him three empty sachets. The police officers asked the accused-appellant about the contents of the sachets. When he answered that he did not know anything about it, he was handcuffed and brought to the police station where he was questioned as to his personal circumstances. As the accused-appellant was stating his full name, Sabellina inquired how he was related to Barangay Kagawad Ruben Saa (*Ruben*) of Macabalan. When he informed them that Ruben was his mother's cousin, he was forced to contact Ruben; when he refused, the police officers left him at the station.

[21]

After a few minutes, Sabellina came back to the police station; later, Carna and Satur arrived informing him that they found three sachets of *shabu* in the accused-appellant's house. The sachets, which were wrapped in cellophane, had markings on them. The police officers asked P30,000.00 from him for his release; when he refused to give in to their demand, he was brought to the crime laboratory.[22]

### ***The Ruling of the RTC***

The RTC held that the prosecution was able to prove the elements of the charges against the accused-appellant. It ruled that the testimony of Carna and Sabellina deserved full faith and credence. Moreover, in view of the conflicting versions between the police officers and that of the accused-appellant, the RTC gave credence to the former who were presumed to have regularly performed their duties, especially in the absence of any evidence that they were inspired by improper motive or were not properly performing their duties.[23]

On the one hand, the RTC found that the accused-appellant's denial was not credible. The RTC noted that he did not even attempt to present a character witness to prove that he was a good person and was not engaged in any wrongdoing.[24]

In view of these findings, the RTC resolved the cases against the accused-appellant as follows:

WHEREFORE, premises considered, this Court hereby finds:

In Criminal Case No. 2010-713, accused **RODEL BELMONTE y SAA** **GUILTY BEYOND REASONABLE DOUBT** of the crime defined and penalized under Section 11, Article II of R.A. No. 9165, and hereby sentences him to an imprisonment ranging from twelve (12) years and one (1) day to thirteen (13) years, and to pay a fine in the amount of P300,000.00 without subsidiary imprisonment in case of non-payment of fine.

In Criminal Case No. 2010-714, accused **RODEL BELMONTE y SAA** **GUILTY BEYOND REASONABLE DOUBT** of the offense defined and penalized under Section 5, Article II of R.A. No. 9165 as charged in the information, and hereby sentences him to suffer the penalty of LIFE IMPRISONMENT and to pay the fine of P500,000.00 without subsidiary imprisonment in case of non-payment of fine. The period of his detention shall be credited in full for the purpose of service of his sentence.

Let the penalty imposed on the accused be a lesson and an example to all who have the same criminal propensity and proclivity to commit the same forbidden act that no man is above the law, and that crime does not pay. The pecuniary gain and benefit which one can enjoy from selling or manufacturing or trading drugs, or other illegal substance, or from committing any other acts penalized under Republic Act No. 9165, cannot compensate for the penalty which one will suffer if ever he is prosecuted, convicted, and penalized to the full extent of the law.

SO ORDERED.<sup>[25]</sup>

Not satisfied with the decision of the RTC, the accused-appellant appealed before the CA.

### ***The Ruling of the CA***

The CA did not find the accused-appellant's appeal meritorious. It ruled that, despite the fact that Sec. 21, Art. II of R.A. No. 9165 was not strictly followed, the police officers substantially complied with the requirements under the said Act and sufficiently established the crucial links in the chain of custody. Furthermore, the noncompliance with some of the requirements did not affect the evidentiary weight of the drugs seized as the chain of custody of the evidence was shown and proven to be unbroken. The CA held that the prosecution had proven that a valid and legitimate buy-bust operation was conducted and that the sachets confiscated were confirmed to contain *shabu* which, when presented before the trial court, were positively identified by the prosecution witnesses. Thus, the CA ruled that the integrity and evidentiary value of the seized illegal drugs were properly preserved and remained unimpaired.<sup>[26]</sup>

The decretal portion of the CA decision reads:

**WHEREFORE**, premises considered, the instant appeal is **DENIED**. The assailed Decision dated February 8, 2013 of the Regional Trial Court, Branch 25 of Cagayan de Oro City finding accused-appellant Rodel Belmonte y Saa guilty beyond reasonable doubt for violation of Sections 11 and 5, Article II of the Comprehensive Dangerous Drugs Act of 2002, Republic act No. 9165 in Criminal Case Nos. 2010-713 and 2010-714 is **AFFIRMED with MODIFICATION** with respect to Criminal Case No. 2010-714 wherein appellant is sentenced to serve the penalty of reclusion perpetua in its entire duration and full extent.

SO ORDERED.<sup>[27]</sup>

**ISSUE**