

## SECOND DIVISION

[ G.R. No. 232300, August 01, 2018 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROSE EDWARD OCAMPO Y EBESA, ACCUSED-APPELLANT.**

### D E C I S I O N

**PERALTA, J.:**

This is an appeal of the Court of Appeals' (CA) Decision<sup>[1]</sup> dated February 10, 2017 dismissing appellant's appeal and affirming the Joint Decision<sup>[2]</sup> dated October 16, 2015 of the Regional Trial Court (RTC), Branch 172, Valenzuela City convicting appellant Rose Edward Ocampo y Ebesa of Violation of Sections 5 and 11, Article II, Republic Act (R.A.) No. 9165.

The facts follow.

A conference to address the complaints of parents and residents of *Barangay* Pinalagad, Malinta, Valenzuela City about the rampant solvent abuse in the area was conducted on June 4, 2012 by the Office of Valenzuela City Councilor Tony Espiritu, the Chairman of the Valenzuela Anti-Drug Abuse Council. Present in the said conference were the Chief of PCR Major Fortaleza, the representative of the Station Anti-Illegal Drugs (SAID) of the Valenzuela Police Station, SPO1 Garcia and the complainants of Area 1 and Area 4 of *Barangay* Pinalagad. It was discussed during the conference that a certain "alias Kris" was involved in the illegal trade of solvents.

Thereafter, Police Chief Inspector Allan Rabusa Ruba of the Valenzuela Police Station formed a team to validate the reports and complaints of the residents of *Barangay* Pinalagad and to conduct a surveillance in the said *barangay*. On June 5, 2012, at 9 o'clock in the morning, the team went to *Barangay* Pinalagad. The team interviewed a confidential informant, a known resident in the area and learned that a certain "alias ER," herein appellant, is engaged in the illegal trade of marijuana and is usually doing business inside a billiard hall situated near the Pinalagad Elementary School. The team then proceeded near the front part of the said school at around 5 o'clock in the afternoon of the same day and conducted a surveillance on the appellant. It was observed that appellant used his bicycle to deliver the marijuana, engaged a young boy as an errand boy and waited inside the billiard hall for his customers. Around 7:20 in the evening of the same day, the team reported the result of their investigation to Chief Ruba and upon receiving the report, Chief Ruba organized a team to conduct a buy-bust operation against appellant which composed of SPO2 Espiritu, PO2 Fabreag, PO2 Recto, PO1 Congson, SPO1 Garcia and PO1 Edgardo Llacuna.

After planning the operation, the team coordinated with the Philippine Drug Enforcement Agency (PDEA) and submitted to the latter their Pre-Operation Report and the PDEA received from the Valenzuela Police Station SAID the Coordination

Form and Pre-Operation Report on June 6, 2012 at 6:00 p.m. and 6:20 p.m., respectively.

Around 8:20 p.m. of June 6, 2012, the team then proceeded to the target area in *Barangay* Pinalagad and reached the same place at around 8:45 p.m. The confidential informant met with the team and informed PO1 Llacuna, the designated poseur-buyer, that appellant was inside the billiard hall repacking marijuana leaves. Afterwards, the confidential informant brought PO1 Llacuna inside the billiard hall and introduced him to appellant as a buyer. Appellant then asked PO1 Llacuna how much he was going to buy and the latter replied "five pesos" which really meant "five hundred pesos." PO1 Llacuna handed the marked money to appellant, thereafter, the latter pulled out five (5) pieces of heat-sealed transparent plastic sachets containing suspected marijuana leaves from a Zesto juice box. PO1 Llacuna immediately motioned the confidential informant to rush out of the billiard hall which was the pre-arranged signal for the other team members. PO1 Llacuna then grabbed the appellant and introduced himself as a police officer and informed him of his constitutional rights. PO1 Llacuna searched the appellant and recovered the marked money from the latter's pocket. The team also recovered fifty-eight (58) small plastic sachets containing marijuana leaves with fruiting tops, one (1) glass tube, eighteen (18) transparent plastic sachets, one (1) newspaper wrapper containing suspected marijuana leaves with fruiting tops and one (1) partially burned cigarette. After that, the team conducted an inventory at the place of arrest in the presence of the appellant, and a barangay official. The inventory report was executed and signed by PO1 Llacuna as the arresting officer, SPO1 Garcia as the investigating officer, and *Kagawad* Sherwin De Guzman as the witness. The conduct of the inventory was also photographed. Immediately after, SPO1 Garcia turned over the seized items which were sealed and labeled to the Crime Laboratory Office of Valenzuela City. The items were received by PO1 Pataueg and turned over the same to Forensic Chemist PCI Cejes who personally received the same evidence and as a result of her examination, the same items tested positive for marijuana, a dangerous drug.

Thus, two Informations were filed against the appellant for violations of Sections 5 and 11, Article II of R.A. No. 9165 that read as follows:

Crim. Case No. 605-V-12

That on or about June 6, 2012 in Valenzuela City and within the jurisdiction of this Honorable Court, the above-named accused, without any authority of law, did then and there willfully, unlawfully and feloniously sell to PO1 EDGARDO S. LLACUNA, who posed as buyer of five (5) heat sealed transparent plastic sachet each containing of one (1.00); one (1.00); one (1.00); one (1.00); one (1.00); for a total combined weight of Five (5) grams of dried marijuana leaves with Fruiting tops, knowing the same to be a dangerous drug.

CONTRARY TO LAW.<sup>[3]</sup>

Crim. Case No. 606-V-12

That on or about June 6, 2012, in Valenzuela City and within the

jurisdiction of this Honorable Court, the above-named accused, without any authority of law, did then and there willfully, unlawfully and feloniously have in his possession and control fifty-eight (58) heat-sealed transparent plastic sachets each containing one point ten (1.10); one point ten (1.10); one point ten (1.10); one point ten (1.10); one point ten (1.10); one point twenty-five (1.25); one point twenty-five (1.25); one point fifteen (1.15); zero point ninety-five (0.95); zero point ninety-five (0.95); zero point ninety-five (0.95); zero point ninety-five (0.95); zero point ninety-five (0.95); zero point ninety (0.90); zero point ninety (0.90); one point zero five (1.05); zero point ninety (0.90); one point twenty (1.20); one point fifteen (1.15); one point twenty-five (1.25); one (1); one (1); one (1); one (1); one point twenty-five (1.25); one point twenty-five (1.25); one (1); one (1); one (1); one point twenty (1.20); one point twenty (1.20); one point twenty (1.20); one point twenty (1.20); zero point ninety-five (0.95); zero point ninety-five (0.95); zero point ninety-five (0.95); zero point ninety-five (0.95); one point zero five (1.05); zero point seventy-five (0.75); one point zero five (1.05); zero point ninety-five (0.95); zero point eighty-five (0.85); one point zero five (1.05); zero point eighty (0.80); zero point eighty (0.80); one point ten (1.10); one point ten (1.10); zero point eighty (0.80); zero point eighty (0.80); zero point eighty (0.80); zero point ninety-five (0.95); zero point ninety-five (0.95); zero point ninety-five (0.95); one (1); one (1); and one (1) for a total combined weight of fifty-seven point eighty-five (57.85) grams of dried Marijuana leaves with Fruiting tops, knowing the same to be a dangerous drug.

CONTRARY TO LAW.<sup>[4]</sup>

Upon arraignment, appellant, with the assistance of counsel, entered a plea of "not guilty" on both charges.

Appellant denied that he sold and possessed the dangerous drugs seized from him and claimed that he was the victim of a frame-up. According to appellant, on June 6, 2012, around 8:00 p.m. to 9:00 p.m., he was playing billiards with a minor at *Barangay Pinalagad, Valenzuela City* near the Pinalagad Elementary School Annex and while playing, two (2) persons who were both male arrived, one of whom he knew as Jayson. The two men asked whether they could buy marijuana, but appellant told them that no one sells marijuana in the area. The two men then left but after a few minutes, Jayson's companion and four (4) more men and one (1) woman arrived. Appellant noticed that two of the men were wearing police identification cards. Immediately thereafter, the group shouted, "*walang tatakbo, raid ito.*" Appellant was surprised and was told to go to the side where the chairs were placed. Afterwards, one of the police officers asked appellant if he knows a certain "*alias Kris*" and the latter answered no. The group proceeded to search the billiard hall and found a brown envelope containing a glass tube, plastic sachets and plastics containing marijuana under the billiard table. Appellant and his minor companion were then shown the brown envelope. Another police officer was called and talked to them and asked them if they have anything to give. Appellant asked how much and was told to give them P60,000.00 each. When appellant and the

minor failed to give such amount, the police officers told them, "*Ah, ganun ba, sige tuluyan na natin yan.*" Later on, a *barangay kagawad* and a person from media arrived.

The RTC found appellant guilty beyond reasonable doubt of the offenses charged and sentenced him as follows:

WHEREFORE, the court finds the accused ROSE EDWARD OCAMPO y EBESA a.k.a. ER guilty beyond reasonable doubt, as principal, of the crime of violation of Section 5 and Section 11 of R.A. 9165 and he is hereby sentenced to suffer the following penalties:

1. In Criminal Case No. 605-V-12, the penalty of imprisonment and a fine of P500,000.00;
2. In Criminal Case No. 606-V-12, the penalty of imprisonment of twelve (12) years and one (1) day, as minimum, to fourteen (14) years, as maximum, and to pay a fine in the amount of Three Hundred Thousand Pesos (Php300,000.00).

The City Jail Warden of Valenzuela City is hereby directed to transfer/commit the accused to the New Bilibid Prison, Bureau of Corrections, Muntinlupa City immediately upon receipt of this decision.

The Branch Clerk of Court is hereby directed to deliver/transmit to the PDEA the seized items subject of these cases for proper disposition.

SO ORDERED. <sup>[5]</sup>

The RTC ruled that appellant was validly arrested before the police officers proceeded to bodily search the appellant and that appellant's denial is weak and unsubstantiated.

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

WHEREFORE, premises considered, the Joint Decision dated October 16, 2015 of the Regional Trial Court of Valenzuela City, Branch 172, is hereby AFFIRMED.

SO ORDERED. <sup>[6]</sup>

The CA ruled that appellant's warrantless arrest was valid because he was caught *in flagrante delicto*. It also ruled that the body of evidence adduced by the prosecution supports the conclusion that the identity, integrity and evidentiary value of the subject marijuana leaves with fruiting tops were successfully and properly preserved and safeguarded through an unbroken chain of custody. Furthermore, the CA ruled that appellant's defense of denial and frame up is viewed with disfavor.

Hence, the present appeal.

The errors presented in the appeal are the following:

I.

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

II.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT FOR THE CRIME CHARGED WHEN THERE ARE DOUBTS THAT THE BUY-BUST OPERATION FROM WHICH THE EVIDENCE WAS ALLEGEDLY SECURED ACTUALLY OCCURRED.

III.

THE TRIAL COURT GRAVELY ERRED IN FINDING THAT THE INTEGRITY AND EVIDENTIARY VALUE OF THE EVIDENCE TAKEN FROM THE ACCUSED-APPELLANT TO HAVE BEEN PRESERVED AND SAFEGUARDED.

[7]

According to appellant, his warrantless arrest was invalid as the policemen had plenty of time to secure a warrant. He also argues that the prosecution was not able to prove the chain of custody of the recovered items.

The appeal is devoid of any merit.

As to the argument of appellant that his arrest was invalid because the arresting officers 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.<sup>[8]</sup> 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.<sup>[9]</sup> Hence, the said buy-bust operation is a legitimate, valid entrapment operation.

As to whether the prosecution was able to prove appellant's guilt beyond reasonable doubt, this Court rules in the affirmative.

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