

THIRD DIVISION

[G.R. No. 221458, September 05, 2018]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MARCELO SANCHEZ Y CALDERON, ACCUSED-APPELLANT.**

DECISION

GESMUNDO, J.:

This is an appeal from the October 16, 2014 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR. H.C. No. 06003, which affirmed the January 30, 2013 Decision^[2] of the Regional Trial Court of Quezon City, Branch 227 (RTC), in Criminal Case No. Q-06-144570, finding Marcelo Sanchez y Calderon (*appellant*) guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act (R.A.) No. 9165, otherwise known as the *Comprehensive Dangerous Drugs Act of 2002*.

Antecedents

In an Information^[3] filed before the RTC, appellant was charged with violation of Sec. 5, Art. II of R.A. No. 9165 as follows:

That on or about the 14th day of December, 2006, in Quezon City, Philippines, the said accused, not being authorized by law to sell, dispense, deliver[,] transport or distribute any dangerous drug, did then and there, willfully, and unlawfully sell, dispense, deliver, transport, distribute or act as broker in the said transaction, zero (0.06) point zero six [gram] of white crystalline substance containing Methylamphetamine Hydrochloride also known as "SHABU", a dangerous drug.

CONTRARY TO LAW.^[4]

Appellant pleaded not guilty during the arraignment.

The prosecution presented as its witnesses PO1 Erwin Bautista (*PO1 Bautista*), Engr. Leonard M. Jabonillo (*Engr. Jabonillo*), PO1 Aldrin Ignacio (*PO1 Ignacio*) and PO1 Ronaldo Flores (*PO1 Flores*). On the other hand, appellant was the defense's sole witness.^[5]

Prosecution's Version

On December 14, 2006 at around 4:30 o'clock in the afternoon, Police Inspector Alberto Gatus (*PI Gatus*) directly received an information from a male informant, who appeared at the Galas Police Station, that a certain "Kiting" was engaged in the

illegal drug trade. Thereafter, PI Gatus assigned PO1 Bautista to coordinate with the Philippine Drug Enforcement Agency (*PDEA*) and to prepare the necessary documentation for the conduct of a buy-bust operation.

In the briefing for the buy-bust operation, PO1 Ignacio was designated as the poseur-buyer and PO1 Flores as his backup. PI Gatus also provided PO1 Ignacio with two (2) one hundred peso bills marked with initials "AI."

At 7:00 o'clock in the evening of even date, the buy-bust team arrived at the place of operation. PO1 Ignacio and the informant alighted from the vehicle, and the latter pointed to a man whom he called "Kiting" standing in front of a house. They approached him and the informant introduced PO1 Ignacio. Kiting then asked PO1 Ignacio how much he would buy, to which the latter replied "*Dalawang Piso*" (which meant P200.00 worth). PO1 Ignacio handed the buy-bust money to Kiting who, in turn, placed the money inside his right pocket and, thereafter, gave PO1 Ignacio the plastic sachet. PO1 Ignacio then lit a cigarette, the pre-arranged signal, prompting PO1 Flores to approach them. When PO1 Ignacio saw the other policemen closing in on them, he immediately grabbed Kiting while PO1 Flores recovered the buy-bust money from Kiting's right side pocket. PO1 Ignacio showed the plastic sachet to PI Gatus and placed it inside another plastic sachet of suspected *shabu* and marked the same with his initials "AI." After the arrest, the buy-bust team proceeded to take the pictures of Kiting and the plastic sachet of suspected *shabu*.

At the police station, investigator PO1 Bautista booked Kiting and asked the latter to identify himself to which he answered, "Marcelo Sanchez." PO1 Bautista also received the buy-bust money and the plastic sachet of suspected *shabu* from PO1 Ignacio. He then prepared the inventory of the seized items and the requests for laboratory examination and drug dependency examination. He endorsed them to PO1 Ignacio, who brought the letter-requests and the specimen to the crime laboratory for examination. Engr. Jabonillo, a forensic chemical officer, received the letter-requests and the specimen.

In his Chemistry Report No. D-544-2006,^[6] Engr. Jabonillo reported that the specimen tested positive for methylamphetamine hydrochloride, a dangerous drug.

Defense's Version

The appellant denied the charge that he was arrested in a legitimate buy-bust operation. He claimed that he was resting inside his house at around 5:00 o'clock in the afternoon of December 14, 2006 when the police officers suddenly barged into his house and searched for somebody. When the police officers did not find the person they were looking for, they arrested him instead. When they did not find anything, they got appellant's cellphone and wallet which contained P200.00. Thereafter, appellant was brought to the police station where he was told that if he could bring out the person they were looking for, he would be released. Later on, he was referred for inquest proceedings and was informed that a charge for selling illegal drugs would be filed against him.

The RTC Ruling

On January 30, 2013, the RTC rendered the assailed judgment convicting the

appellant of the crime charged, the dispositive portion reads:

WHEREFORE IN THE LIGHT OF THE FOREGOING PREMISES, judgment is hereby rendered finding the accused MARCELO SANCHEZ Y CALDERON, guilty beyond reasonable doubt of the offense charged. He is ordered to suffer the penalty of life imprisonment and to pay a fine of [P]5000,000.00.

The Branch Clerk of this Court is hereby ordered to forward the specimen subject of this case covered by **Final Chemistry Report No. D-544-2006** to the PDEA Crime Laboratory to be included in PDEA's next scheduled date of burning and destruction.

The Branch Clerk is likewise ordered to prepare the *[mittimus]* for the immediate transfer of the accused to the New Bilibid Prisons in Muntinlupa City.

SO ORDERED.^[7]

The CA Ruling

Appellant appealed his conviction before the CA, arguing that the evidence against him was inadmissible because he was arrested without any warrant. He also questioned the buy-bust operation, citing the inconsistent testimonies of the prosecution witnesses.^[8]

On the other hand, the appellee maintained that the prosecution had competently and convincingly established all the elements necessary for the charge of illegal sale of *shabu* through the positive and credible testimonies of the police officers pointing to appellant as the seller of the confiscated *shabu*.

The CA, however, affirmed appellant's conviction. It found no sufficient reason to depart or interfere with the findings of the court *a quo* on the credibility of witnesses. The prosecution had amply proven all the elements of the drug sale beyond moral certainty.^[9] The CA explained that:

In the instant case, the prosecution witnesses testified in a straightforward manner how they conducted the buy-bust operation that successfully led to the arrest of accused-appellant. Contrary to accused-appellant's assertion, there were no inconsistencies in the testimony of PO1 Ignacio because he candidly testified that after the arrest, he immediately marked the seized items at the place w[h]ere the arrest took place. In fact, the arresting officers took pictures of the accused-appellant together with the seized items at the place where the arrest was effected.

The testimonies of the prosecution witnesses clearly coincide with each other and clearly established how the buy-bust operation was conducted. It bears to stress that the inconsistencies being pointed out by the

defense cannot overcome the positive and categorical testimonies of the prosecution witnesses that accused-appellant gave to PO1 Ignacio a plastic sachet containing *shabu* in exchange for the amount of [P]200.00 or two (2) one hundred peso bills.^[10]

The CA also stressed that appellant's denial was not substantiated by clear and convincing evidence. There were no witnesses presented to substantiate his claim.^[11]

Ultimately, the CA was convinced that the prosecution was able to prove appellant's guilt beyond reasonable doubt.

Hence, the present appeal.

ISSUE

WHETHER OR NOT THE GUILT OF THE ACCUSED FOR THE CRIME CHARGED HAS BEEN PROVEN BEYOND REASONABLE DOUBT.

In a Resolution^[12] dated November 21, 2016, the Court required the parties to submit their respective supplemental brief, if they so desired. In his Manifestation in Lieu of a Supplemental Brief^[13] dated April 7, 2017, appellant manifested that he was adopting his Appellant's Brief filed before the CA as his supplemental brief for the same had squarely and sufficiently refuted all arguments raised by the appellee. In its Manifestation^[14] dated April 24, 2017, the Office of the Solicitor General (*OSG*), likewise, manifested that it would no longer file a supplement to its Appellee's Brief dated May 6, 2014.

The Court's Ruling

The appeal is meritorious.

To secure a conviction for illegal sale of dangerous drugs under Sec. 5, Art. II of R.A. No. 9165, the prosecution must establish the following elements: (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. What is important is that the sale transaction of drugs actually took place and that the object of the transaction is properly presented as evidence in court and is shown to be the same drugs seized from the appellant.^[15]

In this case, the identities of the buyer and the seller were duly established. The marked buy-bust money retrieved from the appellant during the entrapment operation was likewise identified. The prosecution witnesses had shown that appellant handed over the illegal drugs to PO1 Ignacio, who, in turn, gave the marked buy-bust money, thus, completing the drug deal.

In cases of illegal sale and illegal possession of dangerous drugs, the dangerous

drug seized from the accused constitutes the *corpus delicti* of the offense. Thus, it is of utmost importance that the integrity and identity of the seized drugs must be shown to have been duly preserved. "The chain of custody rule performs this function as it ensures that unnecessary doubts concerning the identity of the evidence are removed."^[16]

Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002,^[17] which implements R.A. No. 9165, defines chain of custody as follows:

Chain of Custody means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction. Such record of movements and custody of seized item shall include the identity and signature of the person who held temporary custody of the seized item, the date and time when such transfer of custody were made in the course of safekeeping and use in court as evidence, and the final disposition.

The prosecution has the duty to prove every link in the chain, from the moment the dangerous drug was seized from the appellant until the time it is offered in court as evidence. The marking of the seized item, the first link in the chain of custody, is crucial in proving an unbroken chain of custody as it is the starting point in the custodial link that succeeding handlers of the evidence will use as a reference point.^[18]

To prove the required chain of custody, records show the following: 1) a buy-bust operation involving one "Kiting" took place in the evening of December 14, 2006;^[19] 2) the marked buy-bust money was retrieved from the appellant, who gave the sachet of *shabu* to PO1 Ignacio;^[20] 3) the marking of the seized item was made after, and at the place of, arrest;^[21] 4) the taking of photos of the accused and the seized items were done at the place of arrest;^[22] 5) the investigation thereafter took place at the police station;^[23] 6) the inventory and signing thereof by a *barangay kagawad* was made at the police station, in the presence of the accused, the operatives and other police officers;^[24] 7) the specimen was brought by PO1 Ignacio to the crime laboratory for examination;^[25] 8) the specimen was received by the forensic chemical officer;^[26] and 9) the chemistry report showed that the specimen yielded positive for methylamphetamine hydrochloride.^[27]

On the basis thereof, the RTC concluded that:

In this case, the prosecution was able to establish that the sale – the delivery of the buy-bust money and in exchange, the delivery of the subject specimen, actually took place which consummated the transaction. The "corpus delicti" or the illegal drug was identified by all those who handled it to prove that its integrity was preserved.^[28]