

# FIRST DIVISION

[ G.R. No. 233653, September 05, 2018 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
RICARDO GUANZON Y CENETA, ACCUSED-APPELLANT.**

## DECISION

**TIJAM, J.:**

In light of the recent surge in drug cases as a result of the ongoing campaign by the administration against the drug epidemic faced by the country, it is timely for this Court to stress, with utmost importance, the need to strictly comply with Section 21 of Republic Act (R.A.) No. 9165 as amended by R.A. No. 10640 on the custody and disposition of evidence. Where the State fails to comply with the said rules, the Court imposes upon the prosecution the duty to present evidence that would demonstrate the identity of each individual in the chain of custody, and the manner of handling the *corpus delicti*, which is the dangerous drug itself. Only then will the Court be able to ensure that presumption of innocence, a primordial right enshrined under the Constitution, is accordingly bestowed upon the accused.

This is an appeal from the Decision<sup>[1]</sup> dated May 31, 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08152, affirming *in toto* the Decision<sup>[2]</sup> dated February 18, 2016 of the Regional Trial Court (RTC) of Antipolo City, Branch 73, in Criminal Case Nos. 03-26225 and 03-26226, finding accused-appellant Ricardo Guanzon y Ceneta (Guanzon) guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of R.A. No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

### Facts of the Case

In two separate Informations, Guanzon was charged for violation of Sections 5 and 11 (Illegal Sale and Possession of Dangerous Drugs), Article II of R.A. No. 9165, *viz*:

Criminal Case No. 03-26225

That on or about the 28<sup>th</sup> day of July 2003, in the City of Antipolo, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law to sell or otherwise dispose of any dangerous drug, did, then and there willfully, unlawfully and knowingly sell, deliver and give away to PO2 Vandever D. Hernandez, who acted as a poseur buyer, one (1) heat-sealed transparent plastic sachet containing 0.04 gram of white crystalline substance, for and in consideration of the sum of P200.00, which after the corresponding laboratory examination conducted by the PNP Crime Laboratory gave positive result to the tests for Methylamphetamine Hydrochloride, also known as shabu, a dangerous drug, in violation of the above-cited law.

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

Criminal Case No. 03-26226

That on or about the 28<sup>th</sup> day of July 2003, in the City of Antipolo, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized to possess/use any dangerous drugs, did, then and there willfully, unlawfully and feloniously have in his possession, custody and control one (1) heat sealed transparent plastic sachet containing 0.01 gram of white crystalline substance, which after the corresponding laboratory examination conducted by the PNP Crime Laboratory gave positive result to the tests for Methylamphetamine Hydrochloride, also known as *shabu*, a dangerous drug, in violation of the above-cited law.

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

Upon arraignment, Guanzon, with the assistance of counsel, pleaded not guilty to both offenses charged. Thereafter, pre-trial and trial on the merits ensued.<sup>[5]</sup>

*The Prosecution's version*

On July 28, 2003, at around 7:00 o'clock in the morning, the elements of the Philippine National Police (PNP), Antipolo City, simultaneously received information from a concerned citizen and the Brgy. Task Force of Mambugan, Antipolo City, that Guanzon was selling dangerous drugs at No. 1622, Kingscup St., Antipolo Valley Subdivision, Brgy. Mambugan, Antipolo City.<sup>[6]</sup>

To apprehend Guanzon, the PNP immediately coordinated with the Philippine Drug Enforcement Agency (PDEA) and planned a buy-bust operation against Guanzon. The buy-bust team was composed of: SPO2 Gerry S. Abalos (SPO2 Abalos) as the team leader; PO2 Vandever D. Hernandez (PO2 Hernandez) as the poseur-buyer; PO3 Cesar F. Paulos (PO3 Paulos) and PO3 Sherwin G. Bulan (PO3 Bulan) as back-ups. The team also prepared two (2) 100 peso bills (with serial numbers Z387982 and CN570732), which were used as marked money for the operation.<sup>[7]</sup>

At around 9:00 o'clock in the morning of the same day, the team arrived at the target area. PO2 Hernandez alighted from their vehicle and approached Guanzon. He told Guanzon, "*tol e-eskor ako*", and gave him the marked money. In exchange, Guanzon handed him a small plastic sachet of white crystalline substance. Upon receipt of the plastic sachet, PO2 Hernandez lit his cigarette as the pre-arranged signal for the consummation of the sale. At this juncture, the rest of the team ran towards Guanzon and assisted in his arrest.<sup>[8]</sup>

PO3 Paulos frisked Guanzon and recovered from him the marked money. He also recovered from him another plastic sachet of white crystalline substance. Thereafter, they informed Guanzon of his constitutional rights and brought him, together with the confiscated sachets, to their office.<sup>[9]</sup>

At the office, PO2 Hernandez marked the sachet bought from Guanzon as specimen "A", and the sachet recovered from Guanzon as specimen "B". Thereafter, the sachets were delivered by PO2 Hernandez to the PNP Crime Laboratory Service for chemical examination. Both plastic sachets of white crystalline substance yielded positive results for the presence of Methamphetamine Hydrochloride or *shabu* based on the Chemistry Report, dated July 28, 2003, executed by Forensic Chemist, PSI Angel C. Timario (PSI Timario).<sup>[10]</sup>

### *The Defense' version*

On July 28, 2003 at around 9:30 o'clock in the morning, while Guanzon was with his friend, Sonny, at the latter's house in La Colina Subdivision, Antipolo City, a group of armed men forcibly entered the house and pointed guns at them. They looked for a man called "Jojo Hiwa". When Guanzon told them that he is "Jojo Hiwa", he was arrested by them.<sup>[11]</sup>

When Guanzon asked the reason for his arrest, they told him to just explain at their office in Lores Plaza, Antipolo City.

At the office, the police officers frisked Guanzon and took all of his money including his cellphone and pack of cigarettes. However, in view of their failure to confiscate any dangerous drugs from him, they asked their asset instead to buy *shabu* which they eventually used to charge Guanzon of the crime of illegal sale and possession of dangerous drugs. They concocted a story that they caught Guanzon in the act of illegally selling and possessing dangerous drugs in a buy-bust operation conducted by their group against him.<sup>[12]</sup>

On February 18, 2016, the RTC promulgated its Decision,<sup>[13]</sup> the dispositive portion of which, reads:

WHEREFORE, in light of all the foregoing, judgment is hereby rendered as follow[s]:

1.) In Criminal Case No. 03-26225, Ricardo C. Guanzon is hereby found GUILTY beyond reasonable doubt of illegal sale of dangerous drugs, as defined and penalized under Section 5, 1st paragraph, Article II of R.A. No. 9165, and is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and to pay a fine of Five Hundred Thousand (Php500,000.00) pesos; and,

2.) In Criminal Case No. 03-26226, Ricardo C. Guanzon is hereby found GUILTY beyond reasonable doubt of illegal possession of dangerous drugs, as defined and penalized under Section 11, 2<sup>nd</sup> paragraph, No. 3, Article II of R.A. No. 9165, and is hereby sentenced to suffer the penalty of imprisonment of twelve (12) years and one (1) day to twenty (20) years and to pay a fine of Three Hundred Thousand (Php300,000.00) pesos.

The contrabands subject hereof are hereby confiscated, the same to be disposed of as the law prescribes.

SO ORDERED.<sup>[14]</sup>

Guanzon appealed his conviction to the Court of Appeals.

### **The CA's Ruling**

In his Brief<sup>[15]</sup>, he argued, among others, that the police officers disregarded the mandatory procedures in the preservation of the integrity of the seized drugs under Section 21 of the Implementing Rules and Regulations (IRR) of R.A. No. 9165. In particular, no inventory and photographs were submitted and formally offered in court, and nowhere in the records showed that the buy-bust team contacted, or even made an attempt to do so, any representative from the media, the Department of Justice (DOJ), or any elected public official. Moreover, Guanzon pointed out inconsistencies in the testimonies of the police officers as to how the buybust operation was conducted.

On May 31, 2017, the CA rendered a Decision<sup>[16]</sup> affirming *in toto* the RTC Decision. The CA found that the inconsistencies referred to by Guanzon were minor discrepancies and pertained to peripheral matters which did not affect the credibility of the police officers. It also ruled that the totality of the evidence adduced by the prosecution, both testimonial and documentary, showed an unbroken chain of custody.

Hence, this appeal.

### **Issue**

The sole issue to be resolved by this Court is, whether the RTC and the CA erred in finding Guanzon guilty beyond reasonable doubt of the crimes charged despite the alleged non-compliance with the mandatory requirements laid down under R.A. No. 9165 and its IRR.

### **Our Ruling**

*The appeal is meritorious.*

To sustain convictions for illegal sale and illegal possession of dangerous drugs under R.A. No. 9165, the prosecution must sufficiently establish all the elements of the said crimes.

For illegal sale of dangerous drugs under Section 5, the following elements must first be established: (1) the identity of the buyer and the seller, the object and the consideration; and (2) the delivery of the thing sold and the payment therefor.<sup>[17]</sup>

For illegal possession of a dangerous drug under Section 11, it must be shown that: (1) the accused was in possession of an item or an object identified to be a prohibited or regulated drug; (2) such possession is not authorized by law; and (3) the accused was freely and consciously aware of being in possession of the drug.<sup>[18]</sup>

Time and again, this Court has consistently held that in prosecutions for illegal sale

and illegal possession of dangerous drugs, the *corpus delicti*, apart from the elements of the offense, must be established beyond reasonable doubt.<sup>[19]</sup> In illegal drug cases, the *corpus delicti* is the illegal drug itself.<sup>[20]</sup> In other words, proving the existence of all the elements of the offense does not suffice to sustain a conviction. The State equally bears the obligation to prove the identity of the seized drug, failing in which, the State will not discharge its basic duty of proving the guilt of the accused beyond reasonable doubt.<sup>[21]</sup>

To ensure that the integrity and identity of the seized drugs in buy-bust operations have been preserved, the procedure for custody and disposition of the same is clearly delineated under Section 21 of R.A. No. 9165, as amended by R.A. No. 10640, viz:

Section 21. Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. - The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(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. (Emphasis ours)

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The Guidelines on the Implementing Rules and Regulations (IRR) of Section 21 of R.A. No. 9165 were also amended pursuant to R.A. No. 10640, as follows:

Section 1. Implementing Guidelines. - The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs,