

SECOND DIVISION

[G.R. No. 224894, October 10, 2018]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. WELITO SERAD Y RAVILLES A.K.A. "WACKY", ACCUSED-APPELLANT.

DECISION

CAGUIOA, J:

Before this Court is an ordinary appeal^[1] filed by the accused-appellant Welito Serad y Ravilles (Wacky) assailing the Decision^[2] dated January 13, 2016 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 01814, which affirmed the Judgment^[3] dated February 19, 2014 of Regional Trial Court (RTC) of Negros Oriental, Branch 30 in Criminal Case No. 20331, finding Wacky guilty beyond reasonable doubt for violating Section 5, Article II of Republic Act No. 9165^[4] (R.A. 9165), otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

The Facts

An Information^[5] was filed against Wacky for violating Section 5, Article II of R.A. 9165, the accusatory portion of which reads:

That on or about the 10th day of January 2011, in the City of Dumaguete, Philippines, and within the jurisdiction of this Honorable Court, the said accused not being then authorized by law, did, then and there willfully, unlawfully and feloniously sell to a poseur buyer one (1) heat-sealed transparent plastic sachet containing 0.32 gram of Methamphetamine Hydrochloride, otherwise known as "SHABU", a dangerous drug.

Contrary to Sec. 5, Art. II of R.A. 9165.^[6]

The version of the prosecution, as summarized by the CA, is as follows:

In its Brief, the State, through the Office of the Solicitor General (OSG), avers that in the early afternoon of January 10, 2011, the Office of Task Force Kasaligan in Negros Oriental was informed by a confidential informant that Wacky was engaged in the illegal sale of drugs at his home at Zone 3, Barangay Looc, Dumaguete City. The confidential informant further volunteered that he could arrange a sale of *shabu* with appellant. As appellant was included in the Task Force's anti-narcotics operation target list, SA Miguel Dungog, team leader of the Task Force, decided to carry out a buy-bust operation.

Prior to the buy-bust operation, SA Dungog conducted a briefing with his men. PO2 Mark Jester Ayunting and the confidential informant were assigned as poseur-buyers, while SPO2 Allen June Germodo, as PO2 Ayunting's immediate backup, and the other members, as additional back

up. SPO2 Germodo prepared nine (9) pieces of five hundred (500) peso bills as buy-bust money. The bills were marked with the initials of SPO2 Germodo and were given to PO2 Ayunting.

The members of the Task Force agreed that a drop call from PO2 Ayunting to SPO2 Germodo would serve as a signal to the back up team that the sale of illegal drugs had been consummated. At around 3 o'clock of the same day, after the briefing, the members of the Task Force, i.e., SA Dungog, SPO2 Germodo, PO2 Ayunting, PO2 Consame and SI Manzanaris, proceeded to the target area. PO2 Ayunting and the confidential informant went to Wacky's house, which was located fifty (50) meters from the main road. The other members of the Task Force waited at their designated posts.

PO2 Ayunting and the confidential informant transacted with Wacky outside the latter's house. After telling Wacky that Ayunting and the confidential informant intend to purchase *shabu* worth four thousand five hundred pesos (P4,500.00), Wacky agreed to sell the requested amount of *shabu* to his buyers, and asked them to wait outside while he went to get the drugs inside the house. Upon his return, appellant was in possession of one (1) plastic sachet which appeared to be containing *shabu*. While Wacky handed the plastic sachet to the confidential informant, PO2 Ayunting made the [pre]-arranged signal (drop call) to SPO2 Germodo. Upon receipt of the drop call, the Task Force members proceeded to the area.

As Wacky demanded payment, PO2 Ayunting handed him the marked money and got the plastic sachet from the confidential informant to confirm if it was *shabu*. At this moment, Wacky noticed the arrival of the back up team, prompting him to flee.

PO2 Ayunting placed the plastic sachet inside his pocket and proceeded to run after Wacky. The other members of the Task Force joined the pursuit. During the chase, Wacky threw the marked money previously paid to him. He was caught by PO2 Ayunting with the aid of SPO2 Germodo and the rest of the back up team, forty (40) or fifty (50) meters away from where the sale took place. Speaking in the Visayan dialect, SPO2 Germodo informed Wacky of their authority as police officers, and accordingly, arrested him. He was likewise informed of the cause of his arrest and of his Constitutional rights. While PO2 Ayunting held the accused, the rest of the members of the Task Force returned to the area to recover marked money thrown away by Wacky. However, SPO2 Germodo was only able to get back a single five hundred peso (P500) bill. PO2 Ayunting marked the transparent plastic sachet with "WS-BB," which stood for "Wellito Serad[-]Buy Bust." After recovering the marked money, SPO2 Germodo conducted an inventory of the item bought from Wacky.

The inventory was held at the place where Wacky was arrested and in the presence of the required witnesses, which included Neil Rio (local media practitioner), Anthony Chilius Benlot (representative of the local DOJ), and IO1 Julieta Amatong (representative [o]f the PDEA-Dumaguete City). Another witness to the inventory, Dandan Teves Leon (Dumaguete City

Kagawad), was not present at the place of the arrest, but he was present at the NBI-Dumaguete District Office. PO2 Ayunting took pictures of the marked money recovered by members of the Task Force and the plastic sachet bought from Wacky.^[7]

On the other hand, the defense's version, as summarized also by the CA, is as follows:

For his part, Wacky narrates a different story. Wacky testified that on January 10, 2011 he was at the well located at the back of his house at Brgy. Looc, Dumaguete City when two (2) men in civilian clothes suddenly came rushing towards him. They asked him the whereabouts of a certain Ricardo Pimentel alias "Tadong." Wacky pointed to them the passage going to Tadong's house. A few minutes later, former NBI Supervising Agent, [Miguel] Dungog (hereinafter SA Dungog), arrived and told the two (2) men to hold him. Wacky was able to free himself from their grasp and run away but they were able to catch him. SA Dungog asked Wacky where the *shabu* was hidden by Tadong, but he replied that he did not know. SA Dungog hit Wacky on the lap with the butt of the armalite rifle he was carrying at the time. Wacky was handcuffed and was told not to worry since he will be released if he tells the truth. They forced h[i]m to tell them where Tadong's house was located and he went with them to said house. The men searched the house. Wacky denies selling dangerous drugs on that day and believes that the present case was filed because SA Dungog had a grudge on him. Dungog previously arrested and filed a case against Wacky last 2006 in which he was acquitted. In 2009, SA Dungog asked Wacky to work for him in an operation against Dandan Liu but he refused.^[8]

Wacky was arraigned on February 25, 2011, in which he pleaded "not guilty" to the crime charged.^[9] Pre-trial and trial thereafter ensued.

Ruling of the RTC

After trial on the merits, in its Judgment dated February 19, 2014, the RTC convicted Wacky of the crime charged. The dispositive portion of the said Judgment reads:

WHEREFORE, in the light of the foregoing, the Court hereby finds the accused Welito Serad y Ravilles a.k.a. Wacky GUILTY beyond reasonable doubt of the offense of illegal sale of 0.32 gram of *shabu* in violation of Section 5, Article II of R.A. No. 9165 and is hereby sentenced to suffer a penalty of life imprisonment and to pay a fine of Five Hundred Thousand Pesos (P500,000.00).^[10]

The RTC gave full faith and credit to the straightforward testimonies of PO2 Mark Jester Ayunting (PO2 Ayunting) and SPO2 Allen June Germodo (SPO2 Germodo) regarding the buy-bust operation and held that the prosecution was able to establish Wacky's guilt beyond reasonable doubt. The RTC found that there was sufficient compliance with the chain of custody rule, and thus the integrity of the evidence was properly preserved.

Aggrieved, Wacky appealed to the CA.

Ruling of the CA

In the CA, Wacky maintained that the case was only filed because National Bureau of Investigation (NBI) Supervising Agent Miguel Dungog (SA Dungog) had a grudge against him, as the latter previously arrested and filed a case against him in 2006 but he was later on acquitted in the said case. Wacky further contended in his appeal that the testimonies of the police officers should not have been given credence for these were marred by inconsistencies, specifically, that it was highly dubious that the confiscated *shabu* only weighed 0.32 gram when the informant supposedly told him that P4,500.00 worth was to be purchased, considering that in 2011 the market price of *shabu* was around P100.00 per 0.01 gram.^[11] Lastly, he put in issue why only one out of the nine bills or marked money was successfully confiscated and presented in court.^[12]

In the assailed Decision dated January 13, 2016, the CA affirmed the RTC's conviction of Wacky, and held that the prosecution was able to sufficiently prove the elements of the crime charged. The CA also found Wacky's arguments to be untenable. It held that the supposed market price of *shabu* was not supported by credible evidence and that, in any event, there were a number of possibilities as to why the amount of *shabu* was more or less than P4,500.00 worth.^[13] The CA ruled that this supposed discrepancy did not cast doubt upon the fact that the sale of *shabu* took place.^[14] Finally, the CA noted that the police officers were able to sufficiently explain why only one of the nine P500.00 bills used as marked money was successfully confiscated and presented in court.^[15]

Hence, the instant appeal.

Issue

The sole issue raised in this appeal is whether the CA erred in finding Wacky guilty beyond reasonable doubt of violating Section 5, Article II of R.A. 9165.

The Court's Ruling

The appeal is unmeritorious.

At the outset, it bears mentioning that Wacky raises the same issues as those raised in – and duly passed upon by – the CA. It is well-settled that in the absence of facts or circumstances of weight and substance that would affect the result of the case, appellate courts will not overturn the factual findings of the trial court.^[16] Thus, when the case pivots on the issue of the credibility of the testimonies of the witnesses, the findings of the trial courts necessarily carry great weight and respect as they are afforded the unique opportunity to ascertain the demeanor and sincerity of witnesses during trial.^[17] Here, after examining the records of this case, the Court finds no cogent reason to vacate the RTC's appreciation of the testimonial evidence, which was affirmed *in toto* by the CA.

The Court is thus convinced that Wacky is guilty beyond reasonable doubt.

Well-settled in jurisprudence is the principle that in all prosecutions for violation of R.A. 9165, the following elements must be proven beyond reasonable doubt: (1) proof that the transaction took place; and (2) presentation in court of the *corpus delicti* or the illicit drug as evidence. The existence of dangerous drugs is a condition

sine qua non for conviction for the illegal sale and possession of dangerous drugs, it being the very *corpus delicti* of the crimes.^[18] What is material is the proof that the transaction or sale transpired, coupled with the presentation in court of the *corpus delicti*.^[19] *Corpus delicti* is the body or substance of the crime, and establishes the fact that a crime has been actually committed.^[20]

In dangerous drugs cases, it is essential in establishing the *corpus delicti* that the procedure provided in Section 21 of R.A. 9165 is followed. The said section provides:

SEC. 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 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;

(2) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination;

(3) A certification of the forensic laboratory examination results, which shall be done under oath by the forensic laboratory examiner, shall be issued within twenty-four (24) hours after the receipt of the subject item/s: *Provided*, That when the volume of the dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals does not allow the completion of testing within the time frame, a partial laboratory examination report shall be provisionally issued stating therein the quantities of dangerous drugs still to be examined by the forensic laboratory: *Provided, however*, That a final certification shall be issued on the completed forensic laboratory examination on the same within the next twenty-four (24) hours[.]

Furthermore, Section 21(a), Article II of the Implementing Rules and Regulations of R.A. 9165 (IRR) filled in the details as to where the physical inventory and photographing of the seized items that had to be done immediately after seizure could be done: *i.e.*, at the place of seizure, at the nearest police station or at the nearest office of the apprehending officer/team, thus: