

SECOND DIVISION

[G.R. No. 232357, November 28, 2018]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDWIN CABEZUDO Y RIEZA, ACCUSED-APPELLANT.

DECISION

CAGUIOA, J:

Before the Court is an ordinary appeal^[1] filed by the accused-appellant Edwin Cabezudo y Rieza (Cabezudo) assailing the Decision^[2] dated November 16, 2016 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07071, which affirmed the Decision^[3] dated June 10, 2014 of the Regional Trial Court of Daet, Camarines Norte, Branch 39 (RTC) in Criminal Case No. 14882, finding Cabezudo guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. (RA) 9165,^[4] otherwise known as "The Comprehensive Dangerous Drugs Act of 2002," as amended.

The Facts

An Information^[5] was filed against Cabezudo in this case, the accusatory portion of which reads as follows:

"That on or about 12:20 in the afternoon of August 16, 2011 in Brgy. Palanas, [M]unicipality of Paracale, [P]rovince of Camarines Norte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did, then and there, willfully, unlawfully and feloniously sell to a poseur-buyer one (1) plastic sachet containing white crystalline substance weighing more or less 0.10 grams, which when subjected to laboratory examination turned positive for methamphetamine hydrochloride or shabu, a dangerous drug, as stated in Chemistry Report No. D-85-11, without authority of law."

CONTRARY TO LAW.^[6]

Upon arraignment, Cabezudo pleaded not guilty to the charge. Thereafter, pre-trial and joint trial on the cases ensued.^[7] The prosecution's version, as summarized by the CA, is as follows:

At about 9:30 in the morning of August 16, 2011, a confidential informant (CI) went to the Office of the [Philippine] Drug Enforcement

Agency (PDEA) Camarines Norte Unit and informed the officers therein that accused-appellant is engaged in illegal drug trade in Paracale, Camarines Norte. A verification from PDEA office files revealed that accused-appellant is included in the watchlist. SO2 Christopher Viaña asked the CI if he can contact accused-appellant so that they can buy shabu from him. When the CI agreed, the buy-bust team decided to conduct an entrapment operation against accused-appellant. SO2 Viaña was designated as the arresting officer while SI2 Erwin Magpantay as the poseur-buyer. The plan is to buy a Php 500.00 worth of shabu.

Before leaving, SO2 Viaña prepared the Pre-Operation Report and forwarded the same to the Regional Office for coordination. At around 11:00 o'clock in the morning, they proceeded to Brgy. Palanas, Paracale, Camarines Norte to entrap accused-appellant. The CI and SI2 Magpantay waited in a store near a cockpit while others strategically positioned themselves waiting for the pre-arranged signal. At around 12:20 in the afternoon, accused-appellant arrived and alighted from a tricycle. The CI approached the latter and they talked. Then, the CI introduced accused-appellant to SI2 Magpantay. Accused-appellant asked the latter to walk further in an attempt to conceal the sale. While walking, he handed to SI2 Magpantay a sachet containing white crystalline substance. In exchange, SI2 Magpantay gave the Php 500.00 to him. After the sale was consummated, he raised his bull cap as a pre-arranged signal to the other officers for them to arrest accused-appellant. Immediately, SO2 Viaña and the rest of the team rushed to the area and arrested him. The latter tried to resist but was subdued by the team. The arrest resulted to the recovery of eleven(11) pieces of Php 1,000.00 bills and fourteen (14) pieces of Php 500.00 bills, and one (1) plastic shachet (*sic*) containing white crystalline substance believed to be shabu. SI2 Magpantay confiscated other bills as he believed that the same were proceeds of accused-appellant's illegal drug activities.

At the scene of the crime, SI2 Magpantay marked the confiscated items. Other members of the team photographed the accused and the seized items. Later on, they transferred to the barangay hall where the witnesses (Barangay Chairman and the representatives from the media and DOJ) signed the inventory report. SI2 Magpantay was in possession of the seized drugs from Brgy. Palanan to the Office of PDEA until the same were delivered to the laboratory for examination. PCI Grace Tugas conducted laboratory examination of the seized white crystalline substance which yielded a positive result for methamp[h]etamine hydrochloride or shabu. After the examination, she placed the shabu in an envelope with her integrity seal (masking tape sealed with her signature) and kept the same together with other documents in a steel cabinet. The shabu and other confiscated items were presented in court and positively identified by the witnesses for the prosecution.^[8]

On the other hand, the version of the defense, as likewise summarized by the CA, is as follows:

Accused-appellant told a different story. He claimed that at around 9:00 o'clock in the morning of August 16, 2011, he was in Talisay, Camarines Norte looking for somebody to accompany him to Paracale, Camarines Norte to redeem his motorcycle that was impounded by the PNP. He was able to convince his friend Ruel to go with him. At around 12:00 noon, they arrived at PNP Office in Paracale. There, he was required to pay fine at the Office of the Municipal Treasurer in the Municipal Hall. He paid the said fine. However, instead of getting first his motorcycle, they proceeded to Paracale Cockpit on board a tricycle. When he alighted from the tricycle, a man suddenly wrapped his arm around his neck and pulled him from behind. He noticed another man running and trying to put something in his pocket. This allegedly prompted him to shout, "*Ruel tulong, tinaniman ako[.]*" The men handcuffed him and pushed him down to the ground. While he was frisked, someone got his money amounting to Php 18,000.00.

Thereafter, he was brought to the Barangay Hall of Palanas, Paracale where he was made to wait for the *Punong Barangay*. At around 1:00 o'clock in the afternoon, the *Punong Barangay* arrived. Accused-appellant requested the latter to put on record the confiscation of the amount of Php 18,000.00 from him by SO2 Viaña.

At 3:00 o'clock in the afternoon, a representative from the DOJ arrived. That was the time that he saw the arresting group and the representatives signed a document.

After his arrest, he was brought to Daet, Camarines Norte. While on their way, SO2 Viaña allegedly told him to produce the amount of Php 100,000.00. He replied that he has no means of producing the same as he was merely engaged in buying and selling birds nests. SO2 Viaña replied, "*Magkano ang kaya mo, para wala nang problema, pera pera lang naman eto[.]*" He told him that he is willing to add the amount of Php 60,000.00 to the Php 18,000.00 that has been confiscated from him. Viaña allegedly replied that they have to talk it over at the office but they have not yet agreed anything at that moment. At the PDEA office, he texted his wife to bring the proceeds of the sale of the bird's nest that he has just sold to a businessman. Later on, his wife arrived with Php 21,000.00. While he was counting the money, SO2 Viaña suddenly grabbed the money and shouted, "*Nanunuhol ka?*" allegedly because of the presence of a mediaman. In response to Viaña's statement, accused-appellant told him that they have not agreed on anything and that he is not bribing him. This prompted Viaña to threaten his wife that they will file a case against her. He begged Viaña to spare his wife and so the latter was instructed to sign in a logbook to make it appear that she just visited him. Before his wife left the office, Viaña handed the amount of Php 16,000.00 to her while the rest of the Php 21,000.00 amounting to Php 5,000.00 was handed over to accused-appellant. Viaña told him that, "*Itong Php 5,000.00 ay sadyang pinaiwan niya para sa mga kasamahan niya, panggastos[.]*" But before he was jailed, SO2 Viaña allegedly took back the Php 5,000.00 from him.^[9]

Ruling of the RTC

After trial on the merits, in its Decision dated June 10, 2014 the RTC convicted Cabezudo of the crime charged. The dispositive portion of the said Decision reads:

WHEREFORE, all the foregoing premises considered, the accused EDWIN CABEZUDO y RIEZA is hereby found **GUILTY** beyond reasonable doubt of the crime of Violation of Section 5, Article II of Republic Act No. 9165, otherwise known as The Comprehensive Dangerous Drugs Act of 2002. He is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT, and to pay a fine of Five Hundred Thousand Pesos (PhP500,000.00).

The 0.10 gram of methamphetamine hydrochloride or shabu is hereby confiscated in favor of the government to be turned over to the Philippine Drug Enforcement Agency (PDEA) for proper disposition.

The amount of PhP18,000.00 confiscated from the accused is hereby ordered released to the accused for lack of any legal basis.

SO ORDERED.^[10]

The RTC ruled that the evidence on record were sufficient to pronounce a verdict of conviction against Cabezudo.^[11] It held that there was testimony to the effect that the buy-bust operation was a legitimate one; hence, there was sufficient proof on record that the sale took place. Furthermore, it ruled that the defenses of denial and frame-up are commonly looked by the courts with disfavor as they could easily be concocted and are, in fact, common defenses in prosecutions for sale of dangerous drugs. The RTC added that the apprehending officers in this case enjoy the presumption of regularity in the performance of their official functions.^[12]

Aggrieved, Cabezudo appealed to the CA.

Ruling of the CA

In the questioned Decision dated November 16, 2016, the CA affirmed the RTC's conviction of Cabezudo, holding that the prosecution was able to prove the elements of the crimes charged. The CA declared that since the main issue of the case was the integrity and evidentiary value of the seized item, then the findings of the trial court should be given great weight and respect as it was in a better position to decide the credibility of evidence.^[13] It likewise upheld the finding of the RTC that the elements of illegal sale of dangerous drugs were sufficiently proven in the present case.^[14]

The CA added that, contrary to Cabezudo's contention, the integrity of the *corpus*

delicti was preserved because "the chain of custody [was] unbroken from the time of markings, inventory and laboratory examination up to the presentation to the court of the sachet containing *shabu*." The CA noted that "non-compliance with Section 21 [of RA 9165] does not render an accused's arrest illegal or the items seized/confiscated from him inadmissible [and the] requirements under R.A. No. 9165 and its Implementing Rules and Regulations (IRR) are not inflexible."^[15]

The CA was also not persuaded by Cabezudo's defense. It held that bare denials and accusations of frame-up could not prevail over the affirmative testimonies of the witnesses. The CA thus upheld the conviction of Cabezudo.

Hence, the instant appeal.

Issue

For resolution of the Court is the issue of whether the RTC and the CA erred in convicting Cabezudo of the crime charged.

The Court's Ruling

The appeal is meritorious. The Court acquits Cabezudo for failure of the prosecution to prove his guilt beyond reasonable doubt.

Cabezudo was charged with the crime of illegal sale of dangerous drugs, defined and penalized under Section 5 of RA 9165. To convict a person under a charge of illegal sale of dangerous drugs, the prosecution must prove the following elements: (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.^[16]

In cases involving dangerous drugs, the State bears not only the burden of proving these elements, but also of proving the *corpus delicti* or the body of the crime. In drug cases, the dangerous drug itself is the very *corpus delicti* of the violation of the law.^[17] While it is true that a buy-bust operation is a legally effective and proven procedure, sanctioned by law, for apprehending drug peddlers and distributors,^[18] the law nevertheless requires strict compliance with the procedures laid down by it to ensure that rights are safeguarded.

Thus, the Court, in each case, looks into whether the police officers involved adhered to the step-by-step procedure outlined in Section 21 of RA 9165. This is because, in all drugs cases, compliance with the chain of custody rule is crucial in any prosecution that follows such operation. Chain of custody means the duly recorded authorized movements and custody of seized drugs or controlled chemicals from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction.^[19] The rule is imperative, as it is essential that the prohibited drug confiscated or recovered from the suspect is the very same substance offered in court as exhibit; and that the identity of said drug is established with the same unwavering exactitude as that requisite is indispensable to make a finding of guilt.^[20]