

SECOND DIVISION

[G.R. No. 225786, November 14, 2018]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. JULIET RIVERA Y OTOM AND JAYSON LACDAN Y PARTO, ACCUSED, JULIET RIVERA Y OTOM, ACCUSED-APPELLANT.

D E C I S I O N

CAGUIOA, J:

This is an Appeal^[1] under Section 13(c), Rule 124 of the Rules of Court from the Decision^[2] dated October 22, 2015 of the Court of Appeals, Eleventh Division (CA) in CA-G.R. CR-HC. No. 06830, which affirmed the Consolidated Judgment^[3] dated May 7, 2014 rendered by the Regional Trial Court, Branch 31, San Pedro City, Laguna (RTC) in Criminal Case No. 10-7311-SPL, which found herein accused-appellant Juliet Rivera y Otom (Rivera) guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. (RA) 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, as amended.

The Facts

An Information^[4] was filed against Rivera for violating Section 5, Article II of RA 9165, the accusatory portion of which reads:

"That on or about the 3:00 o'clock in the afternoon of March 23[,] 2010, in the Barangay of Cuyab, Municipality of San Pedro, Province of Laguna, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without any license or authority from law, did then and there willfully, unlawfully and feloniously sell and deliver to a poseur-buyer, one (1) small plastic sachet containing 0.02 gram of methamphetamine hydrochloride, a dangerous drug, in consideration of the sum of two (2) marked One Hundred Peso bills, with serial numbers JN444376 and PB582377, respectively[.]"

CONTRARY TO LAW.^[5]

When arraigned, Rivera pleaded not guilty to the offense charged.^[6]

The case for illegal sale of dangerous drugs against Rivera was later on consolidated with Criminal Case No. 10-7312-SPL wherein her common-law husband, accused Jayson Lacdan y Parto (Lacdan), stood charged with illegal possession of dangerous drugs allegedly committed as follows:^[7]

"That on or about 3:00 o'clock in the afternoon of March 23, 2010, in the Municipality of San Pedro, Province of Laguna, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there wilfully, unlawfully and feloniously

have in his possession, control and custody one (1) small heat-sealed transparent plastic sachet containing 0.01 gram of methamphetamine hydrochloride, a dangerous drug, in violation of the aforementioned law.

CONTRARY TO LAW."^[8]

Version of the Prosecution

The version of the prosecution, as summarized by the Office of the Solicitor General (OSG), is as follows:

On March 23, 2010 at around 12 noon, the Intelligence Division of San Pedro Municipal Police Station received a report from a confidential informant that accused Jayson Lacdan was selling drugs. Police Inspector Antonio Gutierrez informed PO1 Sonny Xyrus De Leon, PO2 Edgardo Carandang, and PO1 Jifford Signap about the sale of illegal drugs at the house of accused Lacdan located on Vergara St., Pulong Kendi, Barangay Cuyab, San Pedro Laguna.

To confirm the information, PO2 Carandang, PO1 De Leon, PO1 Signap, and one other confidential informant went to the house of accused Lacdan and conducted a surveillance operation at around 2:30 in the afternoon. They saw several people, who looked like drug users, coming in and out of the house. The confidential informant also identified appellant Rivera. Thereafter, they went back to the station to report their findings.

On the same day, P/Insp. Gutierrez, the team leader, sent a pre-operation report and an authority to operate to the Philippine Drugs Enforcement Agency (PDEA) for the conduct of the buy-bust operation.

At around 3:00 o'clock in the afternoon, PO1 De Leon, together with the confidential informant who reported the illegal sale, went to the house of accused Lacdan. Meanwhile, the rest of the buy-bust team waited in strategic positions around seven (7) to eight (8) meters away from the house. Upon his arrival, PO1 De Leon was approached by appellant Rivera, whom he referred to as "Sunshine[.]"

PO1 De Leon asked the appellant if accused Lacdan alias "Itoy" was around because they wanted to buy *shabu*. Accused-appellant informed them that she would be the one to get it from accused Lacdan. Thereafter, she went back inside the house and returned, bringing with her a small plastic sachet containing the suspected *shabu*. PO1 De Leon handed her Php200.00 in payment of the *shabu*. After handing her the money, PO1 De Leon made a missed call to signal his team leader that the transaction had been consummated.

The back-up team, which included PO1 Signap and PO2 Carandang, arrived. Upon seeing them, accused-appellant ran inside the house to the bedroom where accused Lacdan was located. PO1 De Leon ran after her and arrested her inside the bedroom. Meanwhile, PO 1 Signap and PO2 Carandang entered the house and went upstairs, where they found accused Lacdan in his bedroom and arrested him. PO1 De Leon recovered the buy-bust money from accused-appellant while PO2 Carandang

recovered one plastic sachet from accused Lacdan. Upon arrest, the two policemen read them their rights. PO1 De Leon subsequently marked the plastic sachet he possessed as "JR-B," while he marked the recovered plastic sachet from accused Lacdan as "JL-P[.]" Afterward, the accused and the accused-appellant were taken to the police station for investigation.

Upon reaching the police station, the seized items were turned over to P/Insp. Gutierrez to be photographed and inventoried. Mr. Nick Luares, a reporter from Laguna Expose, acted as a witness. Meanwhile, appellant and accused underwent an inquest investigation. The inquest was conducted by Atty. Joel C. Quidayan, the inquest prosecutor.

Thereafter, PO1 De Leon prepared a request for drug examination to the crime laboratory. On the same day at 11:55 in the evening, he, together with PO2 Seguerra, personally brought the two plastic sachets containing white crystalline substance to the crime laboratory for examination.

The seized items were examined by Chief Rodrigo of the Philippine National Police (PNP) Crime Laboratory at Camp Vicente Lim, Calamba, Laguna. Results of the laboratory examination show that the white crystalline substance inside the plastic sachets tested positive for methamphetamine hydrochloride.^[9]

Version of the Defense

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

Rivera denied the charges against her. Allegedly, at around 12:00 noon of March 23, 2010, unknown men arrived and searched their house and frisked her. When they did not find anything, she was handcuffed and boarded on a white car. She found out that Lacdan was also in the car. Thereafter, they were brought to the police station where one (1) of the police officers took two (2) plastic sachets from a drawer, placed them on the table, marked the plastic sachets, and took pictures of them. Then, PO1 De Leon demanded P50,000.00 from Rivera in exchange for her freedom. When she failed to comply, she was detained and charged.^[10]

Ruling of the RTC

In the assailed Consolidated Judgment dated May 7, 2014, the RTC found Rivera guilty of the crime charged. It gave more weight and credence to the testimony of PO1 Sonny Xyrus De Leon (PO1 De Leon) who identified Rivera as the seller, detailed the exchange of the buy-bust money and dangerous drugs, and proved that the *shabu* seized from Rivera at the time of the buy-bust operation was the same specimen tested, introduced, and identified in court.^[11]

However, the RTC acquitted Lacdan based on reasonable doubt on the identity and evidentiary value of the drugs allegedly confiscated from him.^[12]

The dispositive portion of the decision reads:

WHEREFORE, the foregoing considered, judgment is hereby rendered as follows:

1. In Criminal Case No. 10-7311-SPL, accused Juliet Rivera y Otom is hereby found GUILTY beyond reasonable doubt of violation of Section 5, Article II of RA 9165 and is hereby sentenced to suffer the penalty of life imprisonment and to pay a fine of Five Hundred Thousand (P500,000.00) Pesos without subsidiary imprisonment in case of insolvency.

The period of her preventive imprisonment should be given full credit.

2. In Criminal Case No. 10-7312-SPL, accused Jayson Lacdan y Parto is hereby ACQUITTED of violation of Section 11, Article II of Republic Act No. 9165 for failure of the prosecution to prove his guilt beyond reasonable doubt. He is hereby ordered released from detention unless he is being held for some other lawful cause or causes.

Let the two plastic sachets of *shabu* weighing 0.02 and 0.01 gram subject matter of these cases be immediately forwarded to the Philippine Drug Enforcement Agency for its disposition as provided by law. The P200.00 buy-bust money is further ordered forfeited in favour of the government and deposited to the National Treasury through the Office of the Clerk of Court.

SO ORDERED.^[13]

Aggrieved, Rivera appealed to the CA.

Ruling of the CA

In the assailed Decision dated October 22, 2015, the CA affirmed Rivera's conviction. The dispositive portion of the decision reads:

WHEREFORE, the instant appeal is hereby **DENIED**. The May 7, 2014 Consolidated Judgment of the Regional Trial Court, Branch 31, San Pedro City, Laguna in Criminal Case No.10-7311-SPL is **AFFIRMED** *in toto*.

SO ORDERED.^[14]

The CA gave credence to the positive testimony of PO1 De Leon because he remained consistent despite the grueling scrutiny of the trial court judge and the defense counsel.^[15] It ruled that there is no gap in the chain of custody of the *corpus delicti*.^[16] It further held that the integrity and evidentiary value of the seized items were preserved, hence the absence of the required representative from the Department of Justice (DOJ) would not affect the admissibility and probative value of the prosecution's evidence.^[17] Lastly, it ruled that the variance in the weight stated in the information and Chemistry Report^[18] is inconsequential to exculpate Rivera from the offense charged considering that the prosecution had sufficiently proven the identity and integrity of the actual plastic sachet of *shabu* confiscated from her.^[19]

Hence, the instant appeal.

Issue

Whether or not Rivera's guilt for violation of Section 5 of RA 9165 was proven beyond reasonable doubt.

The Court's Ruling

The appeal is meritorious.

After a review of the records, the Court resolves to acquit Rivera as the prosecution admittedly failed to prove that the buy-bust team complied with the mandatory requirements of Section 21 of RA 9165 which thus results in their failure to prove her guilt beyond reasonable doubt.

Rivera was charged with the crime of illegal sale of dangerous drugs, defined and penalized under Section 5, Article II of RA 9165. In order to convict a person charged with the crime of illegal sale of dangerous drugs under Section 5, Article II of RA 9165, the prosecution shall 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.^[20]

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.^[21] 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,^[22] the law nevertheless also requires strict compliance with procedures laid down by it to ensure that rights are safeguarded.

In all drugs cases, therefore, 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.^[23] 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 to make a finding of guilt.^[24]

In this connection, Section 21, Article II of RA 9165,^[25] the applicable law at the time of the commission of the alleged crime, lays down the procedure that police operatives must follow to maintain the integrity of the confiscated drugs used as evidence. The provision requires that: (1) the seized items be inventoried and photographed immediately after seizure or confiscation; (2) that the physical inventory and photographing must be done in the presence of (a) the accused or his/her representative or counsel, (b) an elected public official, (c) a representative from the media, and (d) a representative from the DOJ, all of whom shall be required to sign the copies of the inventory and be given a copy thereof.

This must be so because with "the very nature of anti-narcotics operations, the need for entrapment procedures, the use of shady characters as informants, the ease with which sticks of marijuana or grams of heroin can be planted in pockets of or hands of unsuspecting provincial hicks, and the secrecy that inevitably shrouds all drug deals, the possibility of abuse is great."^[26]

As stated, Section 21 of RA 9165 requires the apprehending team to conduct a physical inventory of the seized items and the photographing of the same **immediately after seizure and confiscation** and **in the presence of the**