

FIRST DIVISION

[G.R. No. 206398, November 05, 2018]

**PEOPLE OF THE PHILIPPINES PLAINTIFF-APPELLEE, VS. JERRY
JAMILA Y VIRAY, ACCUSED-APPELLANT**

DECISION

TIJAM, J.:

Before the Court is an appeal of the Court of Appeals' (CA) Decision^[1] dated July 12, 2012 dismissing the accused-appellant's appeal and affirming the Decision^[2] dated May 25, 2011 of the Regional Trial Court (RTC), Branch 204, Muntinlupa City in Criminal Case No. 08-762 convicting accused-appellant of Violation of Section 5, Article II, Republic Act (R.A.) No. 9165.

FACTS OF THE CASE

Acting on an information received by the Station Anti-Illegal Drugs Special Operation Task Force (SAID-SOTF) of Muntinlupa City, a surveillance and monitoring operation was conducted against a certain "Jerry", who allegedly was selling *shabu* at Purok 4 PNR Site, Barangay Alabang, Muntinlupa City (target place).^[3]

Upon validation of the information, P/S Inspector Alfredo Valdez conducted a briefing and designated SPO4 Faustino Atienza as team leader, PO3 Norman Villareal (PO3 Villareal) as *poseur* buyer, and PO1 Salvador Genova as immediate backup. Accordingly, a Pre-Operation Report to the Philippine Drug Enforcement Agency (PDEA) and the buy-bust money were prepared.^[4]

On September 30, 2008, at about 9:30 p.m., the team went to the target place. PO3 Villareal and the informant approached "Jerry", who was then having a drinking session with two other persons. The informant introduced PO3 Villareal to "Jerry" as a taxi driver interested to buy *shabu*. When asked how much he wanted, PO3 Villareal answered P300.00 worth. "Jerry" said that he has P500.00 worth of *shabu*, but he is willing to sell it only for P300.00. Thus, PO3 Villareal gave "Jerry" the marked peso bills and the latter, in turn, took from his pocket a plastic sachet containing white crystalline substance and gave it to PO3 Villareal.^[5]

Upon examination of the plastic sachet, PO3 Villareal made the pre-arranged signal to alert his backup team. Immediately, he handcuffed "Jerry" and informed him of his constitutional rights. Thereafter, "Jerry" was brought to the SAID-SOTF office where he was identified as Jeremy Jamila (accused-appellant).^[6]

At the station, PO3 Villareal marked the confiscated plastic sachet with the initial "JJ". He also prepared an Inventory, Booking and Information Sheet, Sport Report,

Request for Laboratory Examination, Request for Drug Test, photocopied the buy bust-money, and took pictures of accused-appellant, as well as the confiscated items.^[7]

After the laboratory examinations, the specimen yielded positive for *methylamphetamine hydrochloride*, a regulated drug.^[8]

Thus, an Information^[9] was filed against the accused-appellant for violation of Section 5, Article II of R.A. No. 9165, to wit:

On or about the 30th day of September 2008, in the City of Muntinlupa, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there willfully and unlawfully sell, trade and dispense a dangerous drug, as he did then and there sell to PO3 Norman Villareal for Three Hundred Pesos (P300.00) Methylamphetamine Hydrochloride, a dangerous drug, with a total weight of 0.03 gram contained in transparent plastic sachet, without proper authorization or license therefor.

Contrary to law.

For his defense, accused-appellant countered that while he was drinking beer in front of a store, four men suddenly approached and handcuffed him. He was allegedly brought inside a Revo vehicle, and was asked "San daw po meron?." When accused-appellant replied that he did not know, he saw PO2 Dionisio Gastanes, Jr. produced a plastic sachet containing *shabu*, and three marked P100 bills and told him that those were the evidence that will be used against him. Despite his denial, accused appellant was apprehended by the police officers.^[10]

RTC RULING

On May 25, 2011, the trial court rendered its Decision finding accused-appellant guilty of the crime charged, and sentenced him as follows:

WHEREFORE, premises considered and finding the accused GUILTY beyond reasonable doubt of illegally selling "shabu" a dangerous drug in violation of Sec. 5, Art. II of R.a.. (sic) 9165, JERRY JAMILA y VIRAY is sentenced to LIFE IMPRISONMENT and to pay a fine of Php 500,000.00.

The subject drug evidence is ordered transmitted to the Philippine Drug Enforcement Agency for proper disposition.

The preventive imprisonment undergone by the accused shall be credited in his favor.

SO ORDERED.^[11]

In convicting accused-appellant, the trial court held that the testimonies of the police officers were more credible and consistent with the documentary evidence they presented. Also, it found that the prosecution has indubitably and sufficiently proven all the elements of the crime charged.

CA RULING

In a Decision dated July 12, 2012, the CA affirmed the Decision of the RTC *in toto*, thus:

ACCORDINGLY, the appeal is DISMISSED and the assailed Decision dated May 25, 2011, AFFIRMED.

SO ORDERED.^[12]

The CA held that the prosecution had amply proved that the apprehending team substantially complied with the law and preserved the integrity of the seized items. Also, it gave credence to the testimonies of the buy-bust team members who were presumed to have regularly performed their duties.

Hence, the present appeal.

The accused-appellant raised the following errors in his appeal:

I.

THE TRIAL COURT GRAVELY ERRED IN GIVING FULL WEIGHT AND CREDENCE TO THE PROSECUTION'S EVIDENCE NOTWITHSTANDING ITS FAILURE TO PROVE THE IDENTITY AND INTEGRITY OF THE ALLEGEDLY SEIZED DRUG.

II.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH EVERY LINK IN THE CHAIN OF CUSTODY OF THE SEIZED ITEM.

III.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PREVAILING IRREGULARITIES IN THE APPREHENDING OFFICERS' PERFORMANCE OF THEIR OFFICIAL DUTIES AND THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.^[13]

The accused-appellant averred that the irregularities on the part of the apprehending team, and the uncertainties surrounding the present case, reasonable

doubt clearly exist as regards his guilt.

RULING OF THE COURT

The petition has merit.

Under Section 5, Article II of R.A. 9165, to secure a conviction for illegal sale of *shabu*, the following must concur: (i) the identity of the buyer and the seller, the object of the sale and its consideration; and (ii) the delivery of the thing sold and the payment therefore. It is necessary that the sale transaction actually took place, coupled with the presentation in court of the *corpus delicti* as evidence.^[14]

Jurisprudence dictates that the identity of the prohibited drug must be established beyond reasonable doubt, since it is an integral key part of the *corpus delicti* of the crime. Thus, the prosecution must prove with certitude each link in the chain of custody over the dangerous drug. The dangerous drug recovered from the suspect must be the very same object presented before the court as exhibit.^[15]

To prevent abuse during buy-bust operations, however, the Congress prescribed several procedural safeguards under R.A. 9165 to guide the law enforcers implementing the same.^[16] Specifically, Section 21 of R.A. 9165, as amended, relating to the custody and disposition of the confiscated drugs 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, 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