

SECOND DIVISION

[G.R. No. 225747, December 05, 2018]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
JEFFERSON MEDINA Y CRUZ, ACCUSED-APPELLANT.**

D E C I S I O N

PERLAS-BERNABE, J.:

Assailed in this ordinary appeal^[1] is the Decision^[2] dated September 24, 2015 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06173, which affirmed the Decision^[3] dated May 8, 2013 of the Regional Trial Court of Caloocan City, Branch 120 (RTC) in Crim. Case No. C-84099, finding accused-appellant Jefferson Medina y Cruz (Medina) guilty beyond reasonable doubt of Illegal Sale of Dangerous Drugs, defined and penalized under Section 5, Article II of Republic Act No. (RA) 9165,^[4] otherwise known as the "Comprehensive Dangerous Drugs Act of 2002."

The Facts

This case stemmed from an Information^[5] filed before the RTC accusing Medina of violating Section 5, Article II of RA 9165. The prosecution alleged that on April 26, 2010, members of the District Anti Illegal Drug - Special Operation Task Group, Northern Police District^[6] successfully implemented a buy-bust operation against Medina, during which one (1) plastic sachet containing white crystalline substance was recovered from him. Police Officer 3 (PO3) Honorato Quintero, Jr. then marked the seized item at the place of arrest, and thereafter, brought it to the police station along with Medina. Thereat, PO3 Ariosto B. Rana (PO3 Rana) conducted the inventory^[7] and photography of the seized item in the presence of Maeng Santos (Santos), a media representative, and thereafter, prepared the necessary paperworks for examination. Finally, the seized item was then brought to the crime laboratory where, upon examination,^[8] the contents thereof tested positive for 0.05 gram of methylamphetamine hydrochloride or *shabu*, a dangerous drug.^[9]

In defense, Medina denied the charges against him, claiming instead, that while he was at home at the time of the alleged incident, three (3) men in civilian clothes entered his house and looked for a certain Jeff Abdul. When Medina informed them that there was no such person residing in his house, they frisked him, took him outside, ordered him to lie face down, and put him in handcuffs. He was then brought to the police station where he was charged with Illegal Sale of *shabu*.^[10]

In a Decision^[11] dated May 8, 2013, the RTC found Medina guilty beyond reasonable doubt of the crime charged, and accordingly, sentenced him to suffer the penalty of life imprisonment and to pay a fine in the amount of P500,000.00.^[12] The RTC found that a consummated sale indeed occurred between the poseur buyer

and Medina. In this relation, it brushed aside the defense's claim that Medina was not one of the target persons of the operation since the prosecution was able to clearly and convincingly establish all the elements of the crime charged. Finally, it gave credence to the testimonies of the prosecution witnesses who are presumed to have regularly performed their duties in the absence of proof to the contrary.^[13] Aggrieved, Medina appealed^[14] to the CA.

In a Decision^[15] dated September 24, 2015, the CA affirmed the RTC ruling. It held that the prosecution had established beyond reasonable doubt all the elements of the crime charged, and that the integrity and evidentiary value of the seized item have been properly preserved.^[16]

Hence, this appeal seeking that Medina's conviction be overturned.

The Court's Ruling

The appeal is meritorious.

In cases for Illegal Sale and/or Illegal Possession of Dangerous Drugs under RA 9165,^[17] it is essential that the identity of the dangerous drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime.^[18] Failing to prove the integrity of the *corpus delicti* renders the evidence for the State insufficient to prove the guilt of the accused beyond reasonable doubt and hence, warrants an acquittal.^[19]

To establish the identity of the dangerous drug with moral certainty, the prosecution must be able to account for each link of the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime.^[20] As part of the chain of custody procedure, the law requires, *inter alia*, that the marking, physical inventory, and photography of the seized items be conducted immediately after seizure and confiscation of the same. In this regard, case law recognizes that "[m]arking upon immediate confiscation contemplates even marking at the nearest police station or office of the apprehending team."^[21] Hence, the failure to immediately mark the confiscated items at the place of arrest neither renders them inadmissible in evidence nor impairs the integrity of the seized drugs, as the conduct of marking at the nearest police station or office of the apprehending team is sufficient compliance with the rules on chain of custody.^[22]

The law further requires that the said inventory and photography be done in the presence of the accused or the person from whom the items were seized, or his representative or counsel, as well as certain required witnesses, namely: (a) if **prior** to the amendment of RA 9165 by RA 10640,^[23] "a representative from the media **and** the Department of Justice (DOJ), and any elected public official";^[24] or (b) if **after** the amendment of RA 9165 by RA 10640, "an elected public official and a representative of the National Prosecution Service **or** the media."^[25] The law requires the presence of these witnesses primarily "to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence."^[26]

As a general rule, compliance with the chain of custody procedure is strictly enjoined as the same has been regarded "not merely as a procedural technicality but as a matter of substantive law."^[27] This is because "[t]he law has been crafted by Congress as safety precautions to address potential police abuses, especially considering that the penalty imposed may be life imprisonment."^[28]

Nonetheless, the Court has recognized that due to varying field conditions, strict compliance with the chain of custody procedure may not always be possible.^[29] As such, the failure of the apprehending team to strictly comply with the same would not *ipso facto* render the seizure and custody over the items as void and invalid, provided that the prosecution satisfactorily proves that: (a) there is a justifiable ground for non compliance; and (b) the integrity and evidentiary value of the seized items are properly preserved.^[30] The foregoing is based on the saving clause found in Section 21 (a),^[31] Article II of the Implementing Rules and Regulations (IRR) of RA 9165, which was later adopted into the text of RA 10640.^[32] It should, however, be emphasized that for the saving clause to apply, the prosecution must duly explain the reasons behind the procedural lapses,^[33] and that the justifiable ground for non-compliance must be proven as a fact, because the Court cannot presume what these grounds are or that they even exist.^[34]

Anent the witnesses requirement, non-compliance may be permitted if the prosecution proves that the apprehending officers exerted genuine and sufficient efforts to secure the presence of such witnesses, albeit they eventually failed to appear. While the earnestness of these efforts must be examined on a case-to-case basis, the overarching objective is for the Court to be convinced that the failure to comply was reasonable under the given circumstances.^[35] Thus, mere statements of unavailability, absent actual serious attempts to contact the required witnesses, are unacceptable as justified grounds for non-compliance.^[36] These considerations arise from the fact that police officers are ordinarily given sufficient time beginning from the moment they have received the information about the activities of the accused until the time of his arrest - to prepare for a buy-bust operation and consequently, make the necessary arrangements beforehand, knowing fully well that they would have to strictly comply with the chain of custody rule.^[37]

Notably, the Court, in *People v. Miranda*,^[38] issued a definitive reminder to prosecutors when dealing with drugs cases. It implored that "[since] the [procedural] requirements are clearly set forth in the law, the State retains the positive duty to account for any lapses in the chain of custody of the drugs/items seized from the accused, regardless of whether or not the defense raises the same in the proceedings *a quo*; otherwise, it risks the possibility of having a conviction overturned on grounds that go into the evidence's integrity and evidentiary value, albeit the same are raised only for the first time on appeal, or even not raised, become apparent upon further review."^[39]

In this case, there was a deviation from the witness requirement as the conduct of inventory and photography was not witnessed by an elected public official and a DOJ representative. This may be easily gleaned from the Inventory of Drug Seized/Items^[40] which only proves the presence of a media representative, *i.e.*, Santos. Such finding is confirmed by the testimony of PO3 Rana, the police officer