

## SECOND DIVISION

[ G.R. No. 227021, December 05, 2018 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
CHRISTOPHER ILAGAN Y BAÑA ALIAS "WENG", ACCUSED-  
APPELLANT.**

### DECISION

**CAGUIOA, J:**

This is an Appeal<sup>[1]</sup> under Section 13(c), Rule 124 of the Rules of Court from the Decision<sup>[2]</sup> dated January 26, 2016 of the Court of Appeals, Seventeenth Division (CA) in CA-G.R. CR-HC No. 06786, which affirmed the Judgment<sup>[3]</sup> dated January 23, 2014 rendered by the Regional Trial Court of Batangas City, Branch 84 (RTC) in Criminal Case No. 17648, which found herein accused-appellant Christopher Hagan y Baña alias "Weng" (accused-appellant Christopher) guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. (RA) 9165,<sup>[4]</sup> otherwise known as the "Comprehensive Dangerous Drugs Act of 2002," as amended.

### The Facts

The Information<sup>[5]</sup> filed against accused-appellant Christopher for violation of Section 5, Article II of RA 9165, pertinently reads:

That on or about the 11<sup>th</sup> day of September, 2012, at about 5:20 o'clock in the afternoon, at Poblacion 3, Municipality of San Jose, Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there willfully and unlawfully sell, deliver and give away three (3) heat-sealed transparent plastic sachets, each containing dried *marijuana* fruiting tops, having a total weight of 3.20 grams, a dangerous drug.

Contrary to law.<sup>[6]</sup>

### *Version of the Prosecution*

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

At around 5:00 o'clock in the afternoon of September 11, 2012, a civilian asset went to the San Jose Municipal Police Station and reported to SPO1 Flores and PO2 Mitra that there is a certain "Weng", a helper of the Juennesse Flower Shop, who is engaged in the selling *marijuana*. SPO1 Flores and PO2 Mitra informed their Chief, PCI Eduard Padilla Mallo, who immediately instructed them to prepare for a buy-bust operation. SPO1 Flores prepared the coordination report for the PDEA although the same was sent and received by the PDEA Calamba only at 8:30 in the evening

because the police station has no long distance line. They also prepared two (2) pieces of One Hundred Peso (P100) bill with serial numbers AG790598 and CN548140. SPO1 Flores who was also the duty desk officer recorded in Entry No. 9261 of the police blotter (Exhibit "N") the buy-bust operation to be made and their departure.

Thereafter, SPO1 Flores, PO2 Mitra and the civilian asset proceeded to Poblacion 3, San Jose, Batangas on board a private vehicle, a Toyota Corolla. When their civilian asset pointed to the Juennesse Flower Shop, SPO1 Flores parked the car approximately four (4) meters away from it. PO2 Mitra and the civilian asset alighted while SPO1 Flores was left inside the vehicle. Since the front portion of the establishment is covered with glass, SPO1 Flores can easily see the inside portion of the flower shop. When PO2 Mitra and the civilian asset entered the flower shop, the only person inside was "Weng" who at that time was lying on a chair. The asset told the latter that his companion will buy *marijuana* and upon hearing the same, "Weng" immediately stood up. PO2 Mitra was just beside the asset while they were talking to "Weng". PO2 Mitra then gave the Two One Hundred Peso Bills amounting to Two Hundred Pesos (Php200) to the asset and at that moment, "Weng" brought out from his right pocket three (3) pieces of heat sealed sachet containing suspected *marijuana*. PO2 Mitra gave the money to the civilian asset who handed it to "Weng". After receiving the money, "Weng" gave to PO2 Mitra the suspected *marijuana*. As a pre-arranged signal, PO2 Mitra scratched his nape to inform SPO1 Flores that he already bought *marijuana*. When SPO1 Flores saw the pre-arranged signal, he immediately entered the shop and help (*sic*) PO2 Mitra in arresting the pusher. They informed the pusher, who identified himself as herein accused Christopher Ilagan y Baiia, of his constitutional rights. When they frisked the accused, PO2 Mitra found the two (2) pieces of One Hundred Peso bills.

Afterwards, the policemen brought the Accused (*sic*) to the barangay hall of Brgy. 3, San Jose, Batangas. In the presence of the Brgy. Captain Modesto Kalalo and media representative Mr. Lito Rendora, they conducted the inventory of the confiscated items. PO2 Mitra marked the three (3) sachets containing suspected *marijuana* with markings "ROM-1", "ROM-2" and "ROM-3" (Exhibits "I", "J", and "K") and the two (2) One Hundred Peso bills with markings "ROM-4" and "ROM-5" (Exhibits "G" and "G-1"). Photographs were taken during the inventory at the barangay hall (Exhibits "F" to "F-4"). Thereafter, they went back to the police station. PO2 Mitra was in custody of the confiscated items from the time of the arrest and while they were going back to the police station. Upon arrival, SPO1 Flores recorded in the police blotter the result of the buy-bust operation as Entry No. 9262 (Exhibit "N-1").

At around 8:00 o'clock in the evening of that day, SPO1 Flores and PO2 Mitra brought to the Batangas Provincial Crime Laboratory Office the three (3) sachets of *marijuana* (Exhibits "I", "J", and "K") with the request for laboratory examination (Exhibit "C"). The letter request and the specimen were received by PO1 Bereña as reflected in the stamp-marked portion of the letter request. Entries were then placed on the chain of custody form (Exhibit "M"). Thereafter the police officers went

back to the police station and placed the accused on (*sic*) jail. They executed their sworn statements (Exhibit "A") in connection with (*sic*) arrest of the accused.<sup>[7]</sup>

### *Version of the Defense*

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

At around 5:00 o'clock in the afternoon of September 11, 2012, Christopher Hagan working as a flower arranger, was inside the Jeunesse Flower Shop, arranging flowers for delivery to Seven Eleven Store. While he was working, three (3) police officers, one in civilian clothes and two in uniform, entered the flower shop. The police held his hands and cuffed him. They forced him to board the mobile patrol and brought him to the police station. Police Officers Nelson Flores and Raffy Mitra forced him to sign a document (Receipt of Property Seized) (Exhibit "D"). He refused to sign the document bearing his computer printed name because the *marijuana* stated therein was not taken from him. When he did not sign the paper, the police brought him to the house of the barangay captain and introduced him to the latter. They went to the barangay hall wherein pictures of him were taken.

Prior to his arrest, the accused worked in Jeunesse flower shop for ten to eleven years already. He knew the three policemen because the old police station was just near the place. He did not ask why the police handcuffed him. He was then resisting, the reason why the police was forcing him to board the mobile patrol. At the time the police presented him to the barangay captain, he was not aware that he was already arrested by the police. He did not mention anything to the barangay captain while he was at the barangay hall and he does not remember anything that he has done wrong.

According to Brgy. Captain Modesto Kalalo, the police did not present any illegal drugs, such as *shabu* but he signed a document purported to be the Receipt of Property Seized (Exhibit "D"). Afterwards, the accused was brought back to the police station and put inside the jail (*sic*). When the police officers left the barangay hall, Brgy. Captain Modesto Kalalo called up the Chief of Police to inform him of the incident and to verify if the police really did bring the arrested person to the police station. He also recorded what happened that night in their barangay blotter (Exhibit "5").<sup>[8]</sup>

### **Ruling of the RTC**

In the assailed Judgment<sup>[9]</sup> dated January 23, 2014, the RTC found Christopher guilty of the crime charged. The dispositive portion of the Judgment reads:

**WHEREFORE**, judgment is hereby rendered finding the accused, **CHRISTOPHER ILAGAN y BAÑA GUILTY** beyond reasonable doubt of violation of Section 5, Article II of Republic Act No. 9165 (selling of dangerous drugs) and sentencing him to suffer the penalty of **LIFE IMPRISONMENT** and to pay a fine of **FIVE HUNDRED THOUSAND**

**PESOS (PhP500,000.00).**

X X X X

**SO ORDERED.**<sup>[10]</sup>

The RTC ruled that the buy-bust operation is a legally effective and proven procedure sanctioned by law for apprehending drug peddlers and distributors.<sup>[11]</sup> It also ruled that the prosecution was able to prove the elements of illegal sale of dangerous drugs.<sup>[12]</sup> Furthermore, the requirements of Section 21 of RA 9165 were duly complied with, thus, the prosecution was able to preserve the integrity and evidentiary value of the *marijuana* seized from the accused.<sup>[13]</sup>

Aggrieved, accused-appellant Christopher appealed to the CA.

### **Ruling of the CA**

In the assailed Decision<sup>[14]</sup> dated January 26, 2016, the CA affirmed accused-appellant Christopher's conviction. The dispositive portion of the Decision reads:

**WHEREFORE**, premises considered, the appeal is **DISMISSED**. The assailed Judgment dated January 23, 2014 of the Regional Trial Court (RTC) of Batangas City, Branch 84 in Criminal Case No. 17648 is **AFFIRMED**.

**SO ORDERED.**<sup>[15]</sup>

The CA ruled that the prosecution was able to prove all the elements of illegal sale of *marijuana*.<sup>[16]</sup> It pointed out that accused-appellant Christopher was positively identified by PO2 Raffy Mitra (PO2 Mitra) and SPO1 Nelson V. Flores (SPO1 Flores).<sup>[17]</sup> It held that the discrepancies and minor inconsistencies in the testimonies of the witnesses referring to minor details, and not in actuality touching upon the central fact of the crime, do not impair their credibility.<sup>[18]</sup> It likewise ruled that the integrity and identity of the seized *marijuana* were not compromised because the buy-bust team was able to preserve the integrity and evidentiary value of the drugs seized.<sup>[19]</sup> It held that the failure of the police officers to mark the items seized from accused-appellant Christopher immediately upon their confiscation at the place of arrest does not automatically impair the integrity of the chain of custody and render the confiscated items inadmissible in evidence.<sup>[20]</sup> Lastly, it held that non-compliance with Section 21(a) of the Implementing Rules and Regulations (IRR) of RA 9165 will not render an accused's arrest illegal or the items seized or confiscated from him inadmissible.<sup>[21]</sup>

Hence, the instant appeal.

### **Issue**

Whether or not accused-appellant Christopher'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 accused appellant Christopher as the prosecution utterly failed to prove that the buy bust team complied with the mandatory requirements of Section 21 of RA 9165; thus resulting in its failure to prove his guilt beyond reasonable doubt.

Accused-appellant Christopher 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 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.<sup>[22]</sup>

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.<sup>[23]</sup> 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,<sup>[24]</sup> 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.<sup>[25]</sup> 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.<sup>[26]</sup>

In this connection, Section 21,<sup>[27]</sup> Article II of RA 9165, 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 Department of Justice (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."<sup>[28]</sup>