

## SECOND DIVISION

[ G.R. No. 214536, March 13, 2017 ]

**MEDEL CORONEL Y SANTILLAN, RONALDO PERMEJO Y ABARQUEZ, NESTOR VILLAFUERTE Y SAPIN AND JOANNE OLIVAREZ Y RAMOS, PETITIONERS, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

### R E S O L U T I O N

**LEONEN, J.:**

This resolves the motion for reconsideration of the Resolution dated January 11, 2016 of this Court denying petitioners' Petition for Review on Certiorari.<sup>[1]</sup> The petition assailed the Court of Appeals Decision,<sup>[2]</sup> which affirmed the Regional Trial Court Decision<sup>[3]</sup> finding accused-petitioners Medel Coronel y Santillan (Coronel), Ronaldo Permejo y Abarquez (Permejo), Nestor Villafuerte y Sapin (Villafuerte), and Joanne Olivarez y Ramos (Olivarez) guilty beyond reasonable doubt of violating Article II, Sections 7 and 15 of Republic Act No. 9165 (Comprehensive Dangerous Drugs Act of 2002).

Two (2) Informations were filed before the Regional Trial Court of Pasay City, Branch 231,<sup>[4]</sup> alleging that on or about May 19, 2010, Coronel, Permejo, Villafuerte, and Olivarez were caught knowingly and illegally visiting a drug den and using methamphetamine hydrochloride (*shabu*).<sup>[5]</sup>

The prosecution's version of events is as follows:

On May 19, 2010, a Philippine Drug Enforcement Agency (PDEA) team meeting for the implementation of a search warrant<sup>[6]</sup> covering a building at No. 1734 F. Muñoz Street, Tramo Street, Barangay 43, Zone 6, Pasay City was held.<sup>[7]</sup> The Special Enforcement Group Team Leader of the Metro Manila Regional Office - Philippine Drug Enforcement Agency, IO2 Randy Paragasa (IO2 Paragasa), designated IO2 Daniel Discaya (IO2 Discaya) as the seizing officer, and IO1 Jake Edwin Million (IO1 Million) and IO1 Jayson Albao (IO1 Albao) as the arresting officers.<sup>[8]</sup> The team prepared the pre-operations report form, coordination form, authority to operate, and inventory of seized property/items form.<sup>[9]</sup>

The PDEA team coordinated with a team from the Philippine National Police - Southern Police District in implementing the search warrant.<sup>[10]</sup> They arrived at the subject building at around 2:00 p.m., knocked on the door, and announced that they had a search warrant.<sup>[11]</sup> A PDEA agent shouted that somebody had jumped out the window and the door was forced open with a battering ram.<sup>[12]</sup> IO1 Million and IO1 Albao chased down those who jumped out the window.<sup>[13]</sup>

Three (3) persons, identified as Olivarez, Erlinda Fetalino, and Benjie Guday, were found inside the subject building.<sup>[14]</sup> IO2 Discaya read to them the contents of the search warrant.<sup>[15]</sup>

Coronel, Permejo, and Villafuerte were apprehended after trying to escape out of the window.<sup>[16]</sup> They were brought back to the subject building, where the contents of the search warrant was read to them.<sup>[17]</sup>

Thereafter, Barangay Kagawad Oga Hernandez (Barangay Kagawad Hernandez), Herald Santos (Santos), Assistant City Prosecutor of Pasay City Angel Marcos (Atty. Marcos), and DZAR Sunshine Radio Reporter Jimmy Mendoza (Mendoza) arrived, and the search was conducted in their presence.<sup>[18]</sup>

During the search, the team recovered, among others, transparent plastic sachets, aluminium foils, containers of white crystalline substance and white powdery residue, disposable lighters, improvised plastic scoops, a total amount of P580.00 in assorted bills, and P165.00 in coins.<sup>[19]</sup>

Coronel, Permejo, Villafuerte, and Olivarez were arrested and apprised of their constitutional rights.<sup>[20]</sup> The confiscated items were also inventoried, photographed, and marked in their presence, as well as in the presence of the Barangay officials and the Department of Justice and media representatives.<sup>[21]</sup>

The arrested suspects were brought to the PDEA Headquarters for investigation and mandatory drug testing, together with the seized objects, one of which was identified as *shabu*. Coronel, Villafuerte, Permejo, and Olivarez tested positive for *shabu*.<sup>[22]</sup>

The prosecution submitted the following in its formal offer of evidence:

- 1) *Search Warrant No. 4680(10)*; 2) Joint Affidavit of the Arresting Officers; 3) Pre-Operation Report dated 19 May 2010; 4) Authority to Operate dated 19 May 2010; 5) Certificate of Coordination; 6) Certification from the Barangay; 7) Inventory of the Seized Property/Items and Receipt of property seized; 8) Pictures of the incident; 9) Request for Laboratory Examination; 10) Request for Drug Test dated 19 May 2010; 11) Chemistry Report N[o]. PDEA-DT010-148 to 153; 12) Booking Sheets and Arrest Reports of [petitioners]; 13) strips of aluminum foils; 14) medicine box with white residue; [15]) heat-sealed transparent plastic sachets containing white crystalline substance; [16]) improvised white plastic scoops; [17]) metal rectangular cash box containing traces of white crystalline substance; [18]) improvised plastic pipes; [19]) plastic sachets; [20]) plastic tray containing traces of white crystalline substance; and [21]) silver card boards.<sup>[23]</sup>

The defense's version of events is as follows:

Coronel testified that he did not know Permejo, Villafuerte, and Olivarez.<sup>[24]</sup> On May 19, 2010, at around 2:00 p.m., he was looking for a certain Rommel Yabut (Yabut) in Tramo, Pasay to invite him to the christening of his child.<sup>[25]</sup> Suddenly, there was

a commotion, and someone in a shirt that read "Philippine Drug Enforcement Agency" pointed a gun at him and asked if he was among those being arrested.<sup>[26]</sup> Coronel responded that he was just looking for someone.<sup>[27]</sup> Another man who appeared to be the leader of the PDEA team told the man holding the gun that Coronel should be brought with them.<sup>[28]</sup> Coronel was handcuffed and brought to the drug den.<sup>[29]</sup> He denied being at the drug den out of his own volition.<sup>[30]</sup>

Permejo also testified that he did not know Coronel, Villafuerte, and Olivarez.<sup>[31]</sup> While walking along Tramo, Pasay from his cousin's place in Zapanta, two (2) armed men approached him, took him to another alley, and handcuffed him.<sup>[32]</sup> After about an hour, they made him board a van, and took him to the PDEA office.<sup>[33]</sup>

Villafuerte testified that at the time of the incident, he was walking along Tramo with Olivarez, two (2) men wearing shirts that read "Philippine Drug Enforcement Agency" approached them and forced them into an alley, where he saw other persons handcuffed.<sup>[34]</sup> After being told to stay put, he and Olivarez were handcuffed and made to board a van that brought them to the PDEA office.<sup>[35]</sup> At the office, they were made to sign documents, and brought to detention cells.<sup>[36]</sup>

After trial on the merits, the Regional Trial Court found Coronel, Permejo, Villafuerte, and Olivarez guilty beyond reasonable doubt of violating Article II, Sections 7 and 15 of Republic Act No. 9165. The dispositive reads:

**WHEREFORE**, judgment is hereby rendered as follows:

a) **ACQUITTING** the accused **BENJIE GUDAY Y MANTILLA, FIDEL BALBOA Y MEMORACION and ERLINDA FETALINO Y BATICA** of the charge of Violation of Section 7, of Republic Act 9165 in Criminal Case No. R-PSY-10-02059-CR for failure of prosecution's evidence to establish the guilt of the accused beyond reasonable doubt;

b) Finding accused **MEDEL CORONEL Y SANTILLAN, RONALDO PERMEJO Y ABARQUEZ, NESTOR VILLAFUERTE Y SAPIN and JOANNE OLIVAREZ Y RAMOS a.k.a. JOANNE OLIVARE, guilty beyond reasonable doubt** of the charge of Violation of Section 15, Article II, Republic Act [No.] 9165 in Criminal Case No. R-PSY-10-02058-CR and are hereby sentenced to suffer the penalty of six (6) months rehabilitation in a government center; [and]

[c] Finding accused **MEDEL CORONEL Y SANTILLAN, RONALDO PERMEJO Y ABARQUEZ, NESTOR VILLAFUERTE Y SAPIN and JOANNE OLIVAREZ Y RAMOS a.k.a. JOANNE OLIVARE, guilty beyond reasonable doubt** of the charge of Violation of Section 7, (Visitors of Den, Dive or Resort) of Republic Act No. 9165 in Criminal Case No. R-PSY-10-02059[-CR] and are hereby sentenced to suffer the penalty of imprisonment of twelve (12) years and one (1) day as minimum to fourteen (14) years as maximum and for each of them to pay a fine of one hundred thousand pesos (Php100,000) with subsidiary imprisonment in case of insolvency.<sup>[37]</sup> (Emphasis in the original)

Petitioners appealed to the Court of Appeals on the ground that the prosecution failed to prove their guilt beyond reasonable doubt.

In the Decision dated April 29, 2014, the Court of Appeals affirmed the ruling of the Regional Trial Court.<sup>[38]</sup> The dispositive portion reads:

Finally, considering that the penalties imposed upon accused-appellants are all in accord with the provisions of R.A. No. 9165, more so since they never questioned the same in their *Brief*, this Court affirms the imposition of said penalties by the court *a quo*.

**WHEREFORE**, premises considered, the instant Appeal is **DISMISSED**. The Joint Decision dated 30 October 2012 of the Regional Trial Court of Pasay City, Branch 231 in Criminal Case Nos. R-PSY-010-02059-CR and R-PSY-010-02058-CR is **AFFIRMED**.

**SO ORDERED.**<sup>[39]</sup> (Emphasis in the original)

On November 21, 2014, petitioners filed a Petition for Review on Certiorari with this Court.<sup>[40]</sup> This Court denied the petition for lack of merit in its Resolution<sup>[41]</sup> dated January 11, 2016:

**WHEREFORE**, this court resolves to **DENY** this Petition for lack of merit. Petitioners Medel Coronel y Santillan, Ronaldo Permejo y Abarquez, Nestor Villafuerte y Sapin, and Joanne Olivarez y Ramos a.k.a. Joanne Olivare, are **GUILTY** beyond reasonable doubt of the following:

- a) violating Article II, Section 15 of Republic Act No. 9165 in Criminal Case No. R-PSY-10-02058-CR and are hereby sentenced to suffer the penalty of six (6) months of rehabilitation in a government center; and
- b) violating Article II, Section 7 of Republic Act No. 9165 in Criminal Case No. R-PSY-10-02059-CR and are hereby sentenced to suffer the penalty of imprisonment of twelve (12) years and one (1) day as minimum to fourteen (14) years as maximum and for each of them to pay a fine of P100,000.00 with subsidiary imprisonment in case of insolvency.

**SO ORDERED.**<sup>[42]</sup>

Hence, petitioners have filed this Motion for Reconsideration.<sup>[43]</sup> Petitioners stress that in its Resolution, this Court did not address the prosecution's failure to establish both a continuous and unbroken chain of custody of the subject evidence,<sup>[44]</sup> that the house, where petitioners were apprehended, was a drug den,<sup>[45]</sup> or that petitioners were aware that said house was a drug den and that they visited it knowingly.<sup>[46]</sup> The Office of the Solicitor General has not commented, but instead has manifested that the motion for reconsideration was merely a re-pleading of petitioners' prior arguments.<sup>[47]</sup>

Contrary to petitioners' claim, the Resolution dated January 11, 2016 sufficiently disposed of the matter of chain of custody. The requirements under Section 21(a) of

the implementing rules and regulations of Republic Act No. 9165 were complied with.<sup>[48]</sup> It was established during trial that "there was physical inventory, marking, and taking of photographs of the seized items."<sup>[49]</sup> This was done in the presence of petitioners themselves, Barangay Kagawad Hernandez, Santos, Atty. Marcos, and media representative Mendoza.<sup>[50]</sup> The inventory, which "bore the signature[s] of these witnesses . . . was presented and formally offered as evidence."<sup>[51]</sup> Although forensic chemist Richard Allan Mangalip (Mangalip), who examined the specimen subject of this case, was not presented, this did not detract from the chain of custody.<sup>[52]</sup> The defense agreed to stipulate on the competency and qualifications of Mangalip and his testimony on the examination of the specimen subject of the case.<sup>[53]</sup> It was also stipulated that "the specimen subject of [the] case marked as Exhibit 'D' for the prosecution was the same item subject of a request for laboratory examination dated April 16, 2009 marked as Exhibit 'B,'" which was "the same specimen . . . examined by [Mangalip] as reported in the Physical Science Report No. D-192-09S marked as Exhibit 'C.'"<sup>[54]</sup>

The Resolution dated January 11, 2016 also pointed out that in *People of the Philippines v. Mali*,<sup>[55]</sup> this Court said that the non-presentation of a forensic chemist during trial would not cause an acquittal in illegal drug cases.<sup>[56]</sup>

However, the issue of whether the prosecution has established that petitioners knowingly visited a drug den deserves further review.

Section 7 (b) of Republic Act No. 9165 penalizes the act of knowingly visiting a drug den:

**Section 7. Employees and Visitors of a Den, Dive or Resort.** - The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon:

(a) Any employee of a den, dive or resort, who is aware of the nature of the place as such; and

(b) Any person who, not being included in the provisions of the next preceding paragraph, is aware of the nature of the place as such and shall knowingly visit the same.

Before a person may be convicted under the foregoing provision, it must be shown that he or she knew that the place visited was a drug den, and still visited the place despite this knowledge.

The Court of Appeals relied only on drug test results to conclude that the petitioners were aware of the nature of the subject house as a drug den:

Contrary to accused-appellants' claim that they had no knowledge of the nature of the drug den, records reveal otherwise. In the Chemistry Report No. PDEA-DT010-148 to 153, the urine specimens taken from accused-appellants yielded "**positive** results for the presence of Methamphetamine[.]" Obviously, accused-appellants cannot claim that