

## THIRD DIVISION

[ G.R. No. 219590, June 07, 2017 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
MARCIAL M. PARDILLO, ACCUSED-APPELLANT.**

### DECISION

**TIJAM, J.:**

Accused-appellant Marcial M. Pardillo appeals the Decision<sup>[1]</sup> dated July 31, 2013 promulgated by the Court of Appeals (CA) in CA-G.R. CR No. 01689, which affirmed the judgment of conviction for violation of Section 11, Article II, Republic Act (RA) No. 9165<sup>[2]</sup> rendered against him in a Decision<sup>[3]</sup> dated April 16, 2010 by the Regional Trial Court (RTC), 7<sup>th</sup> Judicial Region, Branch 13, Cebu City in Criminal Case No. CBU-79099.

### The Facts

On February 2, 2007, at around 3 o'clock in the afternoon, SPO1 Metodio Aparis (SPO1 Aparis), together with PO3 Macarinas and PO2 Tremaine Sotto (PO2 Sotto), conducted a roving patrol at Garfield Street, Barangay Suba, Cebu City. While doing the same, SPO1 Aparis noticed the accused-appellant, who was holding two pieces of white transparent sachets in his right hand, in an alley. SPO1 Aparis suspected that the sachets are dangerous drugs; and so, he introduced himself as a police officer and inquired what the accused-appellant was holding. Accused-appellant replied that somebody just asked him to buy shabu.

The police officers brought the accused-appellant to the police station. While on their way to the said station, SPO1 Aparis took custody of the seized articles. Upon reaching the station, SPO1 Aparis placed the markings "MMP-1" and "MMP-2" on the two plastic sachets for laboratory examination. The seized items were brought to the PNP Crime Laboratory. In a Chemistry Report, the items were found positive for methamphetamine hydrochloride or shabu.

An Information was filed against the accused-appellant for violation of Section 11, Article II, RA 9165, which reads:

That on or about the 2<sup>nd</sup> day of February 2007 at about 3:00 o'clock in the afternoon, in the City of Cebu, Philippines and within the jurisdiction of this Honorable Court, the said accused, without authority of law, with deliberate intent, did then and there have in his possession, use and control, two (2) heat sealed plastic packets of white crystalline substance having a total weight of 0.07 gram locally known as "Shabu", containing methamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.<sup>[4]</sup>

For his part, accused-appellant narrated that he was just standing outside his house when a man suddenly approached him and held up his left hand. Subsequently, he was frisked. Said man introduced himself as a police officer while simultaneously showing his firearm tucked in his right side. Soon after, the police officer's companions arrived and invited him to the police station. At the police station, he was asked if he knew a certain Edwin who was selling shabu, to which he replied in the negative.

### **The RTC Ruling**

In its Decision<sup>[5]</sup> dated April 16, 2010, the RTC found the accused-appellant guilty beyond reasonable doubt of violation of Section 11, Article II of RA 9165 and sentenced him to imprisonment of 12 years and one day to 13 years. He was also ordered to pay a fine in the amount of Three Hundred Thousand Pesos (PhP 300,000). The *fallo* thereof reads:

WHEREFORE, Judgment is hereby rendered finding accused· MARCIAL PARDILLO guilty beyond reasonable doubt of violating Section 11, Article II, RA 9165 and sentences him to imprisonment of twelve years and one day to fifteen years and a fine of P300,000.00.

The two heat sealed plastic packets of white crystalline substance marked Exhibit "A" known as shabu, a dangerous drug is hereby ordered confiscated in favor of the government and destroyed pursuant to law.

SO ORDERED.<sup>[6]</sup>

### **The CA Ruling**

On appeal, the CA rendered a Decision<sup>[7]</sup> dated July 31, 2013, affirming the RTC's decision in its entirety. The dispositive portion thereof reads:

WHEREFORE, the appeal is DENIED. The Decision dated April 16, 2010, of the Regional Trial Court, 7<sup>th</sup> Judicial Region, Branch 13, Cebu City in Civil Case No. CBU-79099 is AFFIRMED. No pronouncement as to costs.

SO ORDERED.<sup>[8]</sup>

Accused-appellant then appealed to this Court for review.<sup>[9]</sup>

## The Issues

The issues for resolution are: (1) whether or not there was a valid warrantless arrest and subsequent seizure of accused-appellant's effects; and (2) whether or not the chain of custody was broken.

## The Court's Ruling

It is well-settled that no arrest, search and seizure can be made without a valid warrant issued by a competent judicial authority.<sup>[10]</sup> Any evidence obtained in violation of this provision is inadmissible for any purpose in any proceeding. However, the rule against warrantless searches and seizures admits of exceptions.<sup>[11]</sup>

One of which is warrantless arrest, which justifies a subsequent search. Section 5(a), Rule 113 provides that:

**Section 5. Arrest without warrant; when lawful.--** A peace officer or a private person may, without a warrant, arrest a person:

(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense; xxx

For the exception in Section 5(a) to operate, this Court has ruled that two elements must be present: (1) the person to be arrested must execute an overt act indicating that he has just committed, actually committing, or is attempting to commit a crime; and (2) such overt act is done in the presence or within the view of the arresting officer.<sup>[12]</sup>

The factual circumstances surrounding the arrest of the accused-appellant and the subsequent seizure of the illegal drugs lead Us to conclude that the exception applies, as: (1) SPO1 Aparis, PO3 Macarinas and PO2 Sotto were conducting a roving patrol on Garfield St. because of the rampant drug-trafficking in said area<sup>[13]</sup>; (2) SPO1 Aparis saw the accused-appellant holding transparent sachets, containing a white crystalline substance; (3) SPO1 Aparis identified himself as a police officer and inquired about the substance which accused-appellant was holding; and (4) upon SPO1 Aparis' inquiry, accused-appellant replied that somebody just asked him to buy what he was holding<sup>[14]</sup>.

Accused-appellant's act of holding sachets of white crystalline substance, in an area where drug-trafficking is prevalent, was seen by SPO1 Aparis' naked eye as it was plainly exposed to the latter's view. Also, it is to be noted that he tried to exculpate himself from the liability when he was confronted by a police officer. Thus, accused-appellant's argument that he was just merely walking, and not committing a crime when he was arrested by SPO1 Aparis, is flimsy and unlikely.

Coming to the second issue, We hold that the chain of custody was unbroken.