

FIRST DIVISION

[G.R. No. 228894, August 07, 2017]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOHN PAUL CERALDE Y RAMOS, ACCUSED-APPELLANT.

D E C I S I O N

PERLAS-BERNABE, J.:

Before the Court is an ordinary appeal^[1] filed by accused-appellant John Paul Ceralde y Ramos (Ceralde) assailing the Decision^[2] dated August 4, 2016 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06100, which affirmed the Joint Decision^[3] dated February 18, 2013 of the Regional Trial Court of Lingayen, Pangasinan, Branch 38 (RTC) in Crim. Case Nos. L-9245 and L-9246, finding Ceralde guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of Republic Act No. (RA) 9165,^[4] otherwise known as the "Comprehensive Dangerous Drugs Act of 2002."

The Facts

The instant case stemmed from two (2) Informations^[5] filed before the RTC charging Ceralde of the crime of illegal sale and illegal possession of dangerous drugs, respectively defined and penalized under Sections 5 and 11, Article II of RA 9165, the accusatory portions of which state:

Criminal Case No. L-9245

The undersigned accuses JOHN PAUL CERALDE y RAMOS in the commission of Illegal Sale of Dangerous Drugs as follows:

"That on or about July 23, 2011 along Artacho St., Brgy. Poblacion, Lingayen, Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there [willfully] and unlawfully sell three (3) small transparent plastic sachet containing dried Marijuana leaves, a dangerous and prohibited drug, worth P200.00 to SPO1 Jolly V. Yanes, acting as poseur-buyer, without any lawful authority.["]

Contrary to Art. II, Sec. 5 of RA 9165.^[6]

Criminal Case No. L-9246

The undersigned accuses JOHN PAUL CERALDE y RAMOS in the commission of Illegal Possession of Dangerous Drugs as follows:

"That on or about July 23, 2011 along Artacho St., Brgy. Poblacion, Lingayen, Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there [willfully], unlawfully and feloniously have in his possession, control and custody one (1) heat-sealed plastic sachets containing dried marijuana fruiting tops weighing 0.480 grams, without any necessary license or authority to possess the same."

Contrary to Section 11, Article II of RA 9165.^[7]

The prosecution alleged that at around one (1) o'clock in the morning of July 23, 2011, the buy-bust team composed of Senior Police Officer I (SPO1) Jolly Yanes (SPO1 Yanes), a certain SPO1 Santos, Police Officer 3 Marday Delos Santos (PO3 Delos Santos), and one Police Officer 2 Dizon proceeded to the target area to conduct an entrapment operation on Ceralde. Shortly after, Ceralde arrived and handed three (3) plastic sachets of suspected marijuana leaves to the poseur-buyer, SPO1 Yanes, who, in turn, gave Ceralde the marked money. Thereafter, SPO1 Yanes raised his right hand to signal the rest of the team that the transaction was completed and, consequently, Ceralde was apprehended. PO3 Delos Santos conducted a body search on Ceralde and found another plastic sachet of marijuana in his pants. He then secured the remaining three (3) confiscated plastic sachets of marijuana leaves from SPO1 Yanes and told him to "go ahead."^[8] PO3 Delos Santos immediately marked all four (4) plastic sachets at the place of arrest and in the presence of Ceralde, and subsequently, brought the latter, together with the marked money and the confiscated plastic sachets, to the police station for further investigation and proper documentation. Thereat, PO3 Pedro Vinluan (PO3 Vinluan), the alleged duty investigator, received the confiscated plastic sachets from PO3 Delos Santos and prepared the request for laboratory examination. At around 12 o'clock noon of the same day, PO3 Delos Santos delivered the request for laboratory examination, together with the seized items, to the Philippine National Police (PNP) Crime Laboratory in Urdaneta City, where they were tested positive for the presence of marijuana by Police Chief Inspector and Forensic Chemist Emelda B. Roderos (PCI Roderos). Afterwards, the seized drugs were submitted to Records and Evidence Custodian Mercedita Velasco (REC Velasco) for safekeeping until such time that they were presented to the court as evidence.^[9]

For his part, Ceralde denied the charges against him but opted not to present any evidence during trial, invoking his constitutional right of presumption of innocence. Consequently, he moved to submit the case for decision.^[10]

The RTC Ruling

In a Joint Decision^[11] dated February 18, 2013, the RTC found Ceralde guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of RA 9165 and, accordingly, sentenced him as follows: (a) in Crim. Case No. L-9245, to suffer the penalty of life imprisonment and to pay a fine of P500,000.00, with costs; and (b) in Crim. Case No. L-9246, to suffer the penalty of imprisonment for an indeterminate term of twelve (12) years and one (1) day, as minimum, to fourteen (14) years and

eight (8) months, as maximum, and to pay a fine of P300,000.00, with costs. [12] It held that the prosecution sufficiently established all the elements of the crime of illegal sale of dangerous drugs as it was able to prove that: (a) an illegal sale marijuana, a dangerous drug, actually took place during a valid buy-bust operation; (b) Ceralde was positively identified by witnesses as the seller of the said dangerous drug; and (c) the said dangerous drug was presented and duly identified in open court as the subject of the sale. It also ruled that Ceralde had no right to possess the 0.480 gram of marijuana incidentally recovered from him during his arrest, thus, necessitating his conviction for violation of Sections 5 and 11, Article II of RA 9165. [13]

Aggrieved, Ceralde appealed [14] to the CA.

The CA Ruling

In a Decision [15] dated August 4, 2016, the CA affirmed the Decision of the RTC. [16] It declared that prior surveillance is not required for the validity of an entrapment operation, the conduct of which is best left to the discretion of the police officers, noting too that there were verified reports of Ceralde being involved in the sale of illegal drugs prior to his arrest. [17] Moreover, the CA observed that all the elements of the crime of illegal sale of dangerous drugs were adequately proven, and that the chain of custody rule was substantially complied with, given that: (a) the seized items were properly marked immediately upon confiscation and in the presence of Ceralde, and (b) the absence of representatives from the media, the Department of Justice (DOJ), and any elected public official during the inventory was justified as time was of the essence. [18] More importantly, the integrity and evidentiary value of the seized drugs were preserved from the time of their seizure by PO3 Delos Santos until their presentation in court as evidence. PO3 Delos Santos turned over the seized items to PO3 Vinluan at the police station for further investigation and documentation. Thereafter, the latter returned them to PO3 Delos Santos, who delivered them to the PNP Crime Laboratory for testing. After the conduct of qualitative examination by PCI Roderos, the drugs were submitted to REC Velasco for safekeeping until their presentation in court. [19] Finally, the CA held that the marijuana was validly confiscated from him after he was bodily searched during an *in flagrante delicto* arrest. [20]

Hence, this appeal.

The Issue Before the Court

The issue for the Court's resolution is whether or not the CA correctly upheld Ceralde's conviction for illegal sale and illegal possession of dangerous drugs.

The Court's Ruling

The appeal is meritorious.

At the outset, it must be stressed that an appeal in criminal cases opens the entire case for review and, thus, it is the duty of the reviewing tribunal to correct, cite, and appreciate errors in the appealed judgment whether they are assigned or unassigned.^[21] "The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law."^[22]

Here, Ceralde was charged with the crimes of illegal sale and illegal possession of dangerous drugs, respectively defined and penalized under Sections 5 and 11, Article II of RA 9165. Notably, in order to properly secure the conviction of an accused charged with illegal sale of dangerous drugs, the prosecution must prove: (a) the identity of the buyer and the seller, the object, and the consideration; and (b) the delivery of the thing sold and the payment.^[23] Meanwhile, in instances wherein an accused is charged with illegal possession of dangerous drugs, the prosecution must establish the following elements to warrant his conviction: (a) the accused was in possession of an item or object identified as a prohibited drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug. ^[24]

Case law states that in both instances, it is essential that the identity of the prohibited drug be established with moral certainty. Thus, in order to obviate any unnecessary doubt on the identity of the dangerous drugs, the prosecution has to show an unbroken chain of custody over the same. It must be able to account for each link in the chain of custody over the dangerous drug from the moment of seizure up to its presentation in court as evidence of the *corpus delicti*.^[25]

Pertinently, Section 21, Article II of RA 9165 provides the chain of custody rule, outlining the procedure that police officers must follow in handling the seized drugs, in order to preserve their integrity and evidentiary value.^[26] Under the said section, the apprehending team shall, among others, **immediately after seizure and confiscation conduct a physical inventory and photograph the seized items in the presence of the accused or the person from whom the items were seized, or his representative or counsel, a representative from the media and the Department of Justice, and any elected public official** who shall be required to sign the copies of the inventory and be given a copy of the same, and the seized drugs must be turned over to the PNP Crime Laboratory within twenty-four (24) hours from confiscation for examination.^[27] In the case of *People v. Mendoza*^[28] the Court stressed that **"[w]ithout the insulating presence of the representative from the media or the Department of Justice, or any elected public official during the seizure and marking of the [seized drugs], the evils of switching, 'planting' or contamination of the evidence** that had tainted the buy-busts conducted under the regime of RA No. 6425 (*Dangerous Drugs Act of 1972*) again reared their ugly heads as to **negate the integrity and credibility of the seizure and confiscation of the [said drugs] that were evidence herein of the corpus delicti, and thus adversely affected the trustworthiness of the incrimination of the accused.** Indeed, the x x x presence of such witnesses would have preserved an unbroken chain of custody."^[29]