

SECOND DIVISION

[G.R. No. 208471, August 02, 2017]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ERNESTO SAGANA Y DE GUZMAN, ACCUSED-APPELLANT.**

DECISION

LEONEN, J.:

The miniscule quantity of confiscated illicit drugs heightens the importance of a more stringent conformity to Section 21 of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.^[1]

This Court resolves this appeal^[2] filed by Ernesto Sagana y De Guzman (Sagana) from the Decision^[3] of the Court of Appeals dated February 26, 2013 in CA-G.R. CR-H.C. No. 05154.

The Court of Appeals affirmed the Regional Trial Court's ruling^[4] that Sagana was guilty beyond reasonable doubt of illegal sale and illegal possession of dangerous drugs.

On July 22, 2010, two (2) Informations for violation of Article II, Sections 5^[6] and 11^[7] of Republic Act No. 9165 were filed against Sagana.^[8] The charging portions of the Informations read:

Criminal Case No. 2010-0390-D

That on or about the 21st day of July 2010, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, **ERNESTO SAGANA Y DE GUZMAN @ Nestor**, did then and there, willfully, unlawfully and criminally, sell and deliver to a customer Methamphetamine Hydrochloride contained in one (1) heat[-]sealed plastic sachet, weighing more or less 0.12 gram in exchange for P500.00, without authority do so.

Contrary to Article II, Section 5, R.A. 9165.

Criminal Case No. 2010-0391-D

That on or about the 21st day of July 2010, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, **ERNESTO SAGANAY** [sic] **Y DE GUZMAN @ Nestor**, did then and there, willfully, unlawfully and criminally, have in his possession, custody and control Methamphetamine Hydrochloride (Shabu) contained in five (5) heat[-]sealed plastic sachets, weighing

more or less 0.59 gram, without authority to possess the same.

Contrary to Article II, Section 11, R.A. 9165.^[9] (Emphasis in the original)

Upon arraignment, Sagana pleaded not guilty to the charges.^[10]

Trial on the merits ensued. The prosecution's version of the story is as follows:

On July 21, 2010 at around 2:20 p.m., police officers coordinated with the Philippine Drug Enforcement Agency to act on a tip by a confidential informant. P./Insp. Gerardo Macaraeg, Jr., PO3 Lucas Salonga (PO3 Salonga), PO3 Christian Carvajal (PO3 Carvajal), PO1 Allan Emerson Daus, and PO1 Ferdinand Lopez carried out a buy-bust operation in Sagana's residence at Muslim Tondaligan, Dagupan City.^[11]

PO3 Salonga posted as the poseur-buyer. Five (5) P100.00 bills served as buy-bust money, marked with PO3 Salonga's initials, "LCS."^[12]

Allegedly before the operation, PO3 Salonga had arranged the transaction through a phone call with Sagana, who set the meeting at his house.^[13]

The operation ensued.

Upon arrival at Sagana's house, Sagana invited PO3 Salonga and PO3 Carvajal inside. Once inside, PO3 Salonga informed Sagana that he would purchase P500 worth of *shabu*.^[14]

When Sagana asked for the payment, PO3 Salonga gave him the marked money. After counting the money, Sagana handed him one (1) plastic sachet of *shabu*. Thereafter, PO3 Salonga confronted Sagana and introduced himself as a police officer. PO3 Carvajal apprehended Sagana's wife and another lady who also peddled him *shabu*.^[15]

After a body search on Sagana, PO3 Salonga recovered the marked money and retrieved five (5) more plastic sachets of *shabu*.^[16] PO3 Salonga marked the articles with his initials, "LCS."^[17] Accordingly, he made the confiscation receipt before delivering Sagana to the police station.^[18]

At the police station, the incident was entered in the police blotter. They took photos of Sagana and the confiscated items in the presence of a representative from the Department of Justice, media representatives, and an elected barangay official.^[19]

Based on the chemistry reports of P/Sr. Insp. Myma Malojo (P/Sr. Insp. Malojo), the heat-sealed plastic sachets were positive for methamphetamine hydrochloride.^[20]

On the other hand, the defense posed frame-up and extortion^[21] against the police officers in their version of the events as follows:

On July 21, 2010 at around 2:00 p.m., Sagana was allegedly washing the dishes by the deep well next to his house when he heard a commotion in the yard. He was

then prompted to check out what it was. There, he purportedly saw an armed man attempting to destroy their fence. This man hurriedly approached him, held his neck, and instructed him not to stand and to keep quiet because they were searching for someone.^[22]

Allegedly, two (2) men barged inside his house. When the men went out, they commanded him to direct them to "the money." When Sagana asked about the money, one (1) of them supposedly hit his left side with a gun and was told that he would be brought to the police station. His family saw what the men did, which made his eldest child hysterical.^[23]

Sagana and his wife were taken to the police station where he was asked if the items on top of the office table were his. Sagana answered in the negative which prompted the police officers to bring his wife to the investigating room.^[24]

A police officer allegedly demanded P50,000.00 in exchange for not filing a case against Sagana, an amount open for bargain. However, when Sagana told them that they did not have that amount, he was detained and was taken to the prosecutor's office for inquest the following week.^[25]

On July 19, 2011, the Regional Trial Court found Sagana guilty of the charges.^[26] It ruled that Sagana "was caught in *flagrante delicto* selling *shabu* to a poseur buyer and possessing another five (5) plastic sachets of *shabu*."^[27] It found that all the elements necessary to establish the illegal sale and illegal possession of drugs were proven by the prosecution.^[28] The dispositive portion of the decision read:

WHEREFORE, premises considered, judgment is hereby rendered finding accused Ernesto Sagana y de Guzman **GUILTY** beyond reasonable doubt in. Criminal Case No. 2010-0390-D for selling and delivering shabu weighing 0.12 gram to a poseur buyer in violation of Section 5, Article II of Republic Act [No.] 9165, and pursuant to law, he is sentenced to suffer the penalty of life imprisonment and [a] fine of P500,000.00 and to pay the cost of suit.

In Criminal Case no. 2010-0391-D, the court likewise finds the accused Ernesto Sagana y de Guzman **GUILTY** beyond reasonable doubt for Possession of 0.59 gram of Shabu, a dangerous drug, in violation of Section 11, Article II of Republic Act [No.] 9165 and pursuant to law, he is sentenced to suffer the penalty of imprisonment of twelve (12) years and one (1) day to twenty (20) years and [a] fine of P400,000.00 and to pay the cost of suit.

SO ORDERED.^[29] (Emphasis in the original)

On appeal,^[30] Sagana asserted that the police officers failed to comply with Section 21 of Republic Act No. 9165 and its implementing rules.^[31] He argued that the trial court allegedly erred in finding him guilty of the charges.^[32]

On February 26, 2013, the Court of Appeals affirmed^[33] the trial court's ruling. It held that failure to comply with Section 21 of Republic Act No. 9165 did not render

Sagana's arrest illegal or the evidence confiscated inadmissible.^[34] Strict compliance with the law can be dispensed with provided that "the integrity and the evidentiary value of the seized items [were] . . . preserved" by the law enforcers.^[35]

Hence, this appeal before this Court.

On August 28, 2013^[36] the Court of Appeals elevated to this Court the records of this case pursuant to its Resolution^[37] dated March 14, 2013. The Resolution gave due course to the Notice of Appeal^[38] filed by Sagana.

In the Resolution dated September 30, 2013^[39] this Court noted the records of this case forwarded by the Court of Appeals. The parties were then ordered to file their supplemental briefs, should they so desired, within 30 days from notice.

On November 18, 2013, the Office of the Solicitor General filed a Manifestation^[40] on behalf of the People of the Philippines stating that it would no longer file a supplemental brief. A similar Manifestation^[41] was filed by the Public Attorney's Office on behalf of Sagana.

For resolution before this Court is whether Ernesto Sagana's guilt was proven beyond reasonable doubt. Subsumed in the resolution of this issue is whether the police officers complied with Section 21 of Republic Act No. 9165 and its implementing rules in handling the alleged confiscated *shabu*.

Sagana insists that there are substantial gaps in the chain of custody presented by the prosecution.^[42]

PO3 Salonga allegedly marked the six (6) sachets of *shabu* and conformably prepared the pertinent confiscation receipt.^[43]

At the police station, the confiscated items were allegedly turned to the desk officer for the incident to be entered in the police blotter and for the investigator to prepare the corresponding request for examination. Thereafter, the articles were delivered to the crime laboratory and were received by P/Sr. Insp. Malojo.^[44]

Given this sequence, Sagana underscores that there are three (3) key persons involved: an unnamed desk officer, an unnamed police investigator, and P/Sr. Insp. Malojo, the receiving officer at the crime laboratory. All of them had contact with the purportedly confiscated illicit drugs. However, they were not presented as witnesses by the prosecution, for no reasonable explanation.^[45]

Sagana emphasizes that in spite of making P/Sr. Insp. Malojo's testimony a subject of stipulation, it does not cover either the circumstances under which the specimens were received at the laboratory for testing and analysis or the processes done to these items while in her possession and custody. He then surmises that there can be no guarantee that the alleged confiscated *shabu* were the same ones seized from the buy-bust operation.^[46]

Moreover, Sagana asserts that the prosecution failed to show that the marking and preparation of the receipt were made in his presence.^[47] Despite the signatures of an elected public official and representatives from the media and the Department of Justice on the receipt, there were still infirmities as these signatories were not present in the operation when the inventory was done.^[48]

On the other hand, the Office of the Solicitor General contends that the prosecution was able to establish beyond reasonable doubt that all the essential elements of illegal sale and illegal possession of *shabu* were present.^[49]

PO3 Salonga, as well as the other prosecution witnesses, recounted the circumstances of the contraband's sale that ended with Sagana's apprehension.^[50] The narration made by other witnesses, who were also police officers, should be given weight with the presumption that they performed their duties in a regular manner, absent any evidence to the contrary.^[51]

Furthermore, the Office of the Solicitor General asserts that the chain of custody was never broken and that the seized *shabu's* integrity remained intact.^[52] It avers that the drugs seized from Sagana were undoubtedly the exact specimens examined in the crime laboratory and presented and identified in court.^[53]

This Court rules in favor of accused-appellant Sagana.

I

In a criminal case, this Court commences with the law's own standpoint on the standing of the accused that "in all criminal prosecutions, he is *presumed innocent of the charge* laid unless the contrary is proven beyond reasonable doubt."^[54] The burden of proof lies with the prosecution.^[55] Thus, it must depend "on the strength of its case rather than on the weakness of the case for the defense."^[56]

Moreover, "[p]roof beyond reasonable doubt, or that quantum of proof sufficient to produce a moral certainty that would convince and satisfy the conscience of those who act in judgment," is necessary to surmount the presumption of innocence.^[57]

For a plausible conviction under Article II, Section 5 of Republic Act No. 9165 or ***illegal sale*** of prohibited drugs, the prosecution must ascertain the following:

- (1) the identity of the buyer and the seller, the object of the sale and its consideration; and (2) the delivery of the thing sold and the payment therefor.^[58]

In illegal sale of dangerous drugs, it is necessary that the sale transaction actually happened and that "the [procured] ***object*** is *properly presented* as evidence in court *and is shown to be the same drugs seized from the accused*."^[59]

On the other hand, the following elements must be proven in ***illegal possession*** of prohibited drugs: