

THIRD DIVISION

[G.R. No. 206965, November 29, 2017]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EMMA BOFILL PANGAN, ACCUSED-APPELLANT.

DECISION

LEONEN, J.:

Section 21 of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, cannot be utilized to frustrate legitimate efforts of law enforcers.^[1] Minor deviations from the mandated procedure in handling the *corpus delicti* must not absolve a guilty defendant.^[2]

This Court resolves this appeal^[3] filed by Emma Bofill Pangan (Pangan) from the September 21, 2012 Decision^[4] of the Court of Appeals in CA-G.R. CR-H.C. No. 00747, which affirmed the Regional Trial Court ruling^[5] that she was guilty beyond reasonable doubt of illegal possession of dangerous drugs in violation of Section 11 of Republic Act No. 9165.^[6]

On April 11, 2003, the Office of the City Prosecutor of Roxas City filed an Information^[7] against Pangan for violation of Section 11 of Republic Act No. 9165.^[8] The accusatory portion of this Information read:

That on or about the 10th day of April, 2003, in the City of Roxas, Philippines, and within the jurisdiction of this Honorable Court, said accused, did then and there willfully, unlawfully and feloniously have in her possession and control 14.16 grams of Methamphetamine Hydrochloride (shabu), a dangerous drug, without being authorized by law to possess the same.

CONTRARY TO LAW.^[9]

On May 15, 2003, Pangan pleaded not guilty to the charge.^[10]

Trial on the merits commenced.^[11]

The prosecution presented the following witnesses^[12] : PO1 Eleno Carillo (PO1 Carillo), SPO4 Dionisio Revisa, Jr. (SPO4 Revisa),^[13] Forensic Chemist P/Chief Insp. Angela Baldevieso (P/Chief Insp. Baldevieso), Fastpak Global Express Corporation (Fastpak) employee Louie Culili (Culili), Barangay Kagawad Virginia Beluso (Barangay Kagawad Beluso), and P/S Insp.^[14] Leo Batiles (P/S Insp Batiles).^[15]

PO1 Carillo was an Intelligence Operative^[16] of the Capiz Police Provincial Office in

Camp Teodoro Apil, Roxas City.^[17] At around 8:00 a.m. of April 10, 2003, he conducted a test-buy operation on Pangan at B&T Merchandising on Asis Street, Roxas City.^[18] A police asset had reported that the shop was owned by Pangan and her live-in partner, Mario Tupaz (Tupaz).^[19]

After PO1 Carillo bought a sachet of *shabu* worth P1,000.00 from Pangan, he expressed his interest to buy more drugs.^[20] Pangan instructed him to return in the afternoon of that day as more *shabu* would allegedly be delivered to her via Fastpak.^[21]

PO1 Carillo went back to the Police Provincial Office to report the information to P/S Insp. Batiles. P/S Insp. Batiles and PO1 Carillo applied for a search warrant before Judge Charlito Fantilanan (Judge Fantilanan), who later issued Search Warrant No. 2003-26.^[22]

P/S Insp. Batiles conducted a briefing with the buy-bust team^[23] comprised of PO1 Carillo, SPO4 Revisa, PO2 Escultero, PO1 Etalla,^[24] PO1 Cordovero, PO1 Bernardez^[25] and SPO3 Inocentes Liberia, together with the assigned investigator and recorder.^[26] PO1 Carillo and PO1 Bernardez were tasked to ensure that Pangan was in her store and to give the needed prearranged signal when already warranted.^[27]

At around 4:20 p.m., PO1 Carillo and PO1 Bernardez^[28] bought soft drinks at Pangan's store.^[29] Thereafter, Pangan went out to get a delivery package from Culili.^[30] Pangan acknowledged the receipt of the delivery by signing Waybill No. 200-0000002352-2.^[31] She then returned to the store and placed the delivered Fastpak pouch on top of a table.^[32]

PO1 Carillo made the pre-arranged signal, prompting P/S Insp. Batiles to advance to the area where other members of the buy-bust team followed.^[33] P/S Insp. Batiles read the contents of the search warrant to Pangan.^[34] Barangay Captain Andrada,^[35] Barangay Kagawad Beluso, Barangay Kagawad Cesar Lara (Lara),^[36] Rey Casumpang of Radio Mindanao Network (RMN), Nimbe dela Cruz and Ricardo Bulana (Bulana) of RMN-DYVR also arrived.^[37]

While inside the store, PO1 Carillo and SPO4 Revisa inspected the Fastpak package on top of the table.^[38] Pangan suddenly became unruly, trying to grab the package from PO1 Carillo.^[39] The police officers brought Pangan out of the store to continue the search and to prevent Pangan from harming herself.^[40]

SPO4 Revisa opened the sealed package with a knife.^[41] He found a *Noli Me Tangere* book, the pages of which were intentionally cut^[42] to serve as "compartments" for the three (3) big sachets of suspected *shabu*.^[43] PO1 Carillo searched the table's drawer where he found another small pack of suspected illicit drugs, magazines of a 0.45 caliber pistol, ammunition, a magazine pouch, and a holster.^[44] Members of the media and barangay officials were present during the

entire course of the search and seizure.^[45]

The confiscated items were turned over to SPO1 Lebria^[46] for marking.^[47] He wrote "EBP-1," "EBP-2," "EBP-3," and "EBP-4" on the four (4) plastic sachets, which stood for Emma Bofill Pangan.^[48] He also prepared the inventory, which was signed by the third-party witnesses, who were present during the search.^[49] PO1 Carillo took pictures of the premises and the seized items.^[50]

The arresting team brought Pangan to the police station.^[51] The confiscated articles were recorded in the police blotter.^[52] P/S Insp. Batiles prepared and signed the return of service to be presented to the trial court which issued the search warrant.^[53] The arresting team then brought the return of service of the search warrant and the seized items to the court.^[54]

Later, P/S Insp. Batiles wrote a letter to Judge Fantilanan, requesting to withdraw the four (4) sachets of suspected *shabu* for laboratory examination.^[55] The trial court granted the request causing the items to be forwarded to the Philippine National Police Crime Laboratory, Camp Delgado, Iloilo City.^[56] P/C Insp. Baldevieso issued Chemistry Report No. D-145, which verified that the seized items tested positive for methamphetamine hydrochloride or *shabu*.^[57]

On the other hand, the defense's witnesses were Pangan; her live-in partner, Tupaz; her 17-year-old nephew, Ronel Compa (Compa); a tricycle driver,^[58] Wilson Villareal (Villareal); and Radio Mindanao Network reporter, Bulana.^[59]

The defense's narrative was as follows:

Pangan and Compa were operating the store when a tricycle driver named Nong Nelson came and bought a bottle of soft drink. Thereafter, two (2) men followed and similarly bought some drinks.^[60]

A delivery man from Fastpak suddenly came with a package for Pangan. After handing the package to Pangan, the delivery man directed her to sign the receipt.^[61] Upon checking the package, Pangan noticed that it was addressed to a certain "Gemma."^[62] It is at this point when the two (2) men allegedly approached Pangan and introduced themselves as police officers. One (1) of them struggled to possess the package while the other poked a gun at Compa, instructing him to stay still.^[63]

Pangan continuously struggled to free herself. In the process, she hit a bottle, which broke into pieces. As the commotion continued, one (1) of the men instructed Compa to get the handcuffs inside the store. Pangan was eventually handcuffed and pulled towards the Radio Mindanao Network vehicle parked about 10 arms' length from the store. The two (2) men who struggled to detain her then returned to the store to continue the search.^[64]

After 15 minutes, more police arrived at the store to aid in the search. One (1) of the police officers approached Pangan and told her that her store was being searched. She was told that her handcuffs would be removed so that she could sign

some papers, which Pangan refused to sign.^[65]

Pangan narrated that she and Compa were brought to the police station. In the evening of the same day, Tupaz came. Pangan instructed him to go to her store to check the money she had left in a bag on their bed. When Tupaz returned, he informed Pangan that her bag was "in disarray" without the money inside.^[66] The next day, Pangan caused the incident to be entered in the police blotter.^[67]

Pangan claimed that the package was sealed when it was delivered. She asserted that she was already inside the vehicle when the search warrant was shown to her.^[68] According to her, the search warrant had an inaccurate account of its subject as her true and right name was Emma Bofill, not^[69] Emma Bofill Pangan,^[70] and that the name of her store, Imar Marketing, was not there.^[71] Pangan insisted that she did not know Jaime Castro, the indicated sender of the package.^[72] She asserted that she was not expecting any delivery that day.^[73]

The Regional Trial Court^[74] convicted Pangan.^[75] It found that Pangan had *animus possidendi* as she appeared to know the contents of the Fastpak package she had received.^[76]

It also ruled that Pangan failed to rebut the claim that PO1 Carillo initially conducted a successful test-buy that led to the application for a search warrant.^[77] Considering that Pangan directed PO1 Carillo to return in the afternoon as more supply would allegedly be delivered to her through Fastpak, PO1 Carillo knew precisely what to find during the conduct of the search.^[78]

Furthermore, when Pangan realized that she was dealing with police officers, she tried to grab the package. The trial court inferred that if she really knew nothing about its contents, she would not have been concerned with its possession.^[79]

Contrary to Pangan's assertion that the presumption of regularity could not work in favor of the arresting team,^[80] the trial court ruled that the police officers properly carried out their duties during the search, there being no proof of any misdeed or irregularity.^[81] It also ruled that although none of the prosecution witnesses testified where the seized articles were marked, this does not automatically mean that the articles were marked elsewhere and not at the place where the items were confiscated.^[82] PO1 Carillo, SPO4 Revisa, and Barangay Kagawad Beluso identified the seized illicit drugs in court as the same ones recovered from Pangan during the implementation of the warrant. Considering that no evidence was presented to establish any improper motive on their part, their testimonies deserve full credit.^[83]

The dispositive portion of its Decision read:

WHEREFORE, accused EMMA BOFILL PANGAN is found guilty beyond reasonable doubt of possession of 14.16 grams^[84] of methamphetamine hydrochloride, a dangerous drug, in the afternoon of April 10, 2003 at Roxas City, Philippines without being authorized by law to possess the same, defined and penalized by Section 11 sub paragraph (1), Article II

of Republic Act No. 9165 and is sentenced to life imprisonment and to pay a fine of Four Hundred Thousand (P400,000.00) Pesos, Philippine Currency, and the costs of this suit.

She will be credited with the full term of her detention period.

The illegal drugs are ordered confiscated to be turned over to the Philippine Drug Enforcement Agency (PDEA) for proper disposal.

SO ORDERED.^[85] (Emphasis in the original)

Pangan appealed the conviction, attesting that the prosecution failed to prove the identity of the confiscated drugs. Allegedly, the police officers failed to observe the guidelines provided for under Section 21 of Republic Act No. 9165. Neither the marking of the confiscated drugs or the signing of the inventory receipt was made in her presence.^[86]

The Court of Appeals ruled against the accused.^[87]

It found that failure to strictly conform to the requirements of Section 21 of Republic Act No. 9165 does not immediately make the seized drugs inadmissible as evidence,^[88] provided that the integrity and evidentiary worth of the seized articles were maintained.^[89]

Furthermore, the Court of Appeals ruled that Pangan's absence during the marking and inventory was justified as she became "hysterical" after the search warrant was read to her.^[90] Hence, the arresting officers needed to pacify Pangan to prevent her from harming herself and other people.^[91]

The dispositive portion of its Decision provided:

WHEREFORE, in view of the foregoing premises, the appeal filed in this case is hereby **DENIED**. The assailed Decision dated April 18, 2007 of the Regional Trial Court, Branch 16, of Roxas City in Criminal Case No. C-093-03 is **AFFIRMED**.

SO ORDERED.^[92] (Emphasis in the original)

Hence, this appeal was filed before this Court.

On May 20, 2013,^[93] the Court of Appeals elevated to this Court the records of this case pursuant to its January 23, 2013 Resolution,^[94] which gave due course to Pangan's Notice of Appeal.^[95]

In its July 22, 2013 Resolution,^[96] this Court noted the records of this case forwarded by the Court of Appeals. The parties were ordered to file their respective supplemental briefs, should they have desired, within 30 days from notice. Both parties manifested that they would no longer file supplemental briefs.^[97]

For resolution before this Court is whether or not Emma Bofill Pangan's^[98] guilt was