

SECOND DIVISION

[G.R. No. 213607, January 25, 2016]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GLEN PIAD Y BORI, RENATO VILLAROSA Y PLATINO AND NILO DAVIS Y ARTIGA, ACCUSED-APPELLANTS.

D E C I S I O N

MENDOZA, J.:

Subject of this appeal is the January 22, 2014 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 04780, which affirmed the September 24, 2009 Joint Decision^[2] of the Regional Trial Court, Branch 164, Pasig City (RTC), finding accused-appellant Glen Piad (*Piad*) guilty of violation of Sections 5 and 11, Article II of Republic Act (R.A.) No. 9165, as amended, in Criminal Case Nos. 14086-D and 14087-D; and accused-appellants Renato Villarosa (*Villarosa*), Agustin Carbo (*Carbo*) and Nilo Davis (*Davis*) all guilty of violation of Sections 13 and 14, Article II of R.A. No. 9165 in Criminal Case Nos. 14088-D and 14089-D.

Accused-appellant Piad was charged in two (2) informations with the crimes of illegal sale of dangerous drugs weighing 0.05 gram and illegal possession of dangerous drugs weighing 0.06 gram. While accused-appellant Villarosa, Carbo and Davis were charged in two (2) informations with the crimes of illegal possession of dangerous drugs during a party weighing 0.03 gram and illegal possession of drug paraphernalia during a party.

On August 8, 2005, Piad, Villarosa and Carbo were arraigned and they pleaded "Not Guilty." Davis, however, was not arraigned because he had jumped bail.^[3]

Pre-trial and trial on the merits ensued. On May 15, 2008, after Davis was arrested, he was arraigned and, with the assistance of a counsel, pleaded "Not Guilty" to the charges against him.

Evidence of the Prosecution

The prosecution presented POI Larry Arevalo (*PO1 Arevalo*), PO1 Joseph Bayot (*PO1 Bayot*), Forensic Chemist PSI Stella Ebuena (*PSI Ebuena*), PO2 Clarence Nipales (*PO2 Nipales*), and P/Insp. Donald Sabio (*P/Insp. Sabio*), as its witnesses. Their combined testimonies tended to prove the following:

On April 23, 2005, the Special Operations Task Force, Pasig City Police Station, Pasig City, received information from a confidential informant that a certain "Gamay," who was later identified as Piad, was selling drugs along Ortigas Bridge, Pasig City. P/Insp. Sabio led the team, composed of POI Arevalo, POI San Agustin, POI Bayot, PO1 Danilo Pacurib, PO2 Nipales, and POI Bibit, to conduct a buy-bust operation. PO1 Arevalo was assigned as poseur-buyer and was provided with the marked

money - P150.00 in P100.00 and P50.00 peso bills. The Philippine Drug Enforcement Agency (*PDEA*) issued a certificate of coordination authorizing the team to proceed with the operation.

Around 6:45 o'clock in the afternoon, the team arrived at the house of Piad in Lifestones Subdivision, Rosario, Pasig City. The back-up team took up position about 5 meters away from Piad's house. The confidential informant, with PO1 Arevalo, knocked on the door. When Piad opened the door, the confidential informant introduced PO1 Arevalo as a buyer of *shabu*. Piad asked PO1 Arevalo how much he wanted and the latter answered P150.00. Thereafter, Piad closed the door and returned after a few seconds.

Upon opening the door again, PO1 Arevalo noticed that a group of male individuals were inside the house. PO1 Arevalo handed to Piad the P150.00 marked money. In turn, Piad handed to PO1 Arevalo a small plastic sachet containing white crystalline substance. After the transaction was completed, PO1 Arevalo immediately grabbed Piad's right arm and introduced himself as a police officer. Piad, however, struggled to free himself. PO1 Arevalo was eventually forced to enter the house amidst the struggle. The back-up team followed suit and entered the house.

After arresting him, PO1 Arevalo asked Piad to bring out the marked money. Piad complied. PO1 Arevalo also asked him about the source of the drugs he sold. Piad pulled out a metal box from his pocket and it revealed two (2) other plastic sachets containing white crystalline substance. PO1 Arevalo marked all the items confiscated from Piad at the place of the arrest. Meanwhile, the back-up team saw Villarosa, Davis and Carbo inside the house, sitting on the floor. They were surrounded by three (3) sachets of white crystalline substance (one was heat sealed, while the other two were unsealed), aluminum foil, a tooter and disposable lighters. The items were confiscated and were marked by PO1 Bayot thereat.

The team brought Piad, Villarosa, Carbo, and Davis to the police headquarters. There, PO2 Pacurib, PO1 Bayot and PO1 Arevalo executed a joint affidavit on their arrest. P/Insp. Sabio prepared the requests for laboratory examination and drug test, which were brought by SPO1 Bayot to the Eastern Police District Crime Laboratory. PSI Ebuena examined the confiscated items which tested positive for methamphetamine hydrochloride.

Evidence of the Defense

The defense presented Piad, her sister Maria Zennette Piad (*Maria*), Villarosa, Carbo, and Davis as its witnesses. They all testified to establish the following:

On April 23, 2005, Piad, Villarosa, Carbo, and Davis were celebrating a birthday party in the house of Piad. Between 1:00 o'clock and 2:00 o'clock in the afternoon, a tricycle and a vehicle stopped in front of the house at Pilar Apartment, Ortigas Avenue, Pasig City. Two (2) armed men in civilian clothes alighted from the vehicle, while another armed man alighted from the tricycle. All of them suddenly entered the house of Piad, where the accused-appellants were having a drinking spree. Piad, Villarosa, Carbo, and Davis were then ordered to lie down on the floor facing downwards. Thereafter, the armed men searched the house. Subsequently, the accused-appellants were handcuffed and brought to the police station. Piad claimed that the police officers were asking P20,000.00 in exchange for their freedom; while

Carbo claimed that the officers were demanding P10,000.00 for their release.

The RTC Ruling

In its Joint Decision, dated September 24, 2009, the RTC found Piad guilty beyond reasonable doubt of the crimes of illegal sale and illegal possession of dangerous drugs, while Villarosa, Carbo and Davis were found guilty beyond reasonable doubt of the crimes of illegal possession of dangerous drugs during parties and illegal possession of drug paraphernalia during parties.

The RTC held that all the elements of the crime of illegal sale of drugs were established because PO1 Arevalo handed the marked money to Piad, who, in turn, handed the plastic sachet, which was confirmed to contain 0.05 gram of *shabu*. The elements of the crime of illegal possession of drugs were also established because two (2) more sachets of *shabu* weighing 0.06 gram were found in the metal container inside the pocket of Piad immediately after his arrest.

As to Villarosa, Carbo and Davis, the RTC found that they committed the crime of illegal possession of drugs and paraphernalia during a party because they were surrounded by plastic sachets containing 0.03 gram of *shabu* and different drug paraphernalia when the team found them. The elements of such crimes were clearly proven because they were in a proximate company of at least two persons and without any legal authority to possess such illicit items.

The RTC did not give credence to the defense of denial and frame up put up by the accused because their testimonies were inconsistent and self-serving. The dispositive portion of the decision reads:

WHEREFORE:

1. In Criminal Case No. 14086-D, the Court finds the accused Glen Piad alias Gamay guilty beyond reasonable doubt of violation of Section 5, Article II of R.A. 9165, and hereby imposes upon him the penalty of life imprisonment and a fine of Five Hundred Thousand Pesos (Php500,000.00) with the accessory penalties provided for under Section 35 of said R.A. 9165.
2. In Criminal Case No. 14087-D, the Court finds the accused Glen Piad alias Gamay guilty beyond reasonable doubt of violation of Section 11, Article II of R.A. 9165, and hereby imposes upon him an indeterminate penalty of imprisonment from twelve (12) years and one (1) day, as minimum, to sixteen (16) years, as maximum, and a fine of Three Hundred Thousand Pesos (Php300,000.00) with all the accessory penalties under the law.
3. In Criminal Case No. 14088-D, their guilt having been established beyond reasonable doubt, accused Renato Villarosa y Platino, Agustin Carbo y Pavilion and Nilo Davis y Artiga are hereby CONVICTED of violation of Section 13, Article II of R.A. 9165 for possessing methylamphetamine hydrochloride weighing less than five grams in the proximate company of at least two persons

without legal authority and sentenced to suffer an indeterminate penalty of imprisonment from Twelve (12) years and one (1) day, as minimum, to Twenty (20) years as maximum, and fine of Four Hundred Thousand Pesos (Php400,000.00) each.

4. In Criminal Case No. 14089-D their guilt having been established beyond reasonable doubt, accused Renato Villarosa y Platino, Agustin Carbo y Pavilion and Nilo Davis y Artiga are hereby CONVICTED of violation of Section 14, Article II of R.A. 9165 for possessing paraphernalia for dangerous drug in the proximate company of at least two persons without legal authority and hereby sentenced to suffer an indeterminate penalty of imprisonment from six (6) months and one (1) day, as minimum, to four (4) years, as maximum, and fine of Fifty Thousand Pesos (Php50,000.00) each.

HOWEVER, the four (4) plastic sachets containing white crystalline substance or shabu (Exhs. H, H-1, H-2, and J) and the illegal drug paraphernalia (Exhs. I, K, L, M, N, O, P) are hereby ordered turned over to the Philippine Drug Enforcement Agency for destruction and proper disposition.

SO ORDERED.^[4]

Aggrieved, Piad, Villarosa, Carbo, and Davis filed their notices of appeal.^[5] Subsequently, Carbo withdrew his appeal,^[6] which was granted by the CA in its Resolution,^[7] dated October 21, 2011.

In their Appellants' Brief,^[8] Piad, Villarosa and Davis argued that the chain of custody rule was not complied with because PSI Ebuena did not testify on the condition of the confiscated items; that it was not shown how the said items were brought before the court; and that no photograph was taken or an inventory of the seized items was conducted.

In its Appellee's Brief,^[9] the Office of the Solicitor General (OSG) countered that Section 21 of the Implementing Rules and Regulations (IRR) of R.A. No. 9165 required only substantial compliance as long as the integrity and evidentiary value of the items were preserved; and that the testimony of the police officers showed that the items were properly handled.

The CA Ruling

In its assailed decision, dated January 22, 2014, the CA affirmed the conviction of Piad, Villarosa and Davis. The CA held that all the elements of the crimes charged were indeed proven. As to the chain of custody, the appellate court enumerated in detail how the prosecution was able to establish its compliance with Section 21 of R.A. No. 9165. As the chain of custody of the seized items was sufficiently established not to have been broken, then the admissibility and credibility of the said items were appreciated. The CA disposed the appeal in this wise:

WHEREFORE, the Appeal is DENIED. The RTC Decision in Criminal Cases Nos. 14086-D, 14087-D, 14088-D and 14089-D, finding accused-appellants guilty of the crimes charged is hereby AFFIRMED.

SO ORDERED.^[10]

Hence, this appeal.

In its Resolution,^[11] dated November 19, 2014, the Court required the parties to submit their respective supplemental briefs, if they so desired.

In its Manifestation and Motion,^[12] dated January 8, 2015, the OSG manifested that it would no longer submit a supplemental brief because its Brief for the Appellee, dated February 10, 2012, before the CA had extensively and exhaustively discussed all the issues and arguments raised by the accused-appellants.

In their Manifestation (in lieu of Supplemental Brief),^[13] dated February 4, 2015, the accused-appellants manifested that they would no longer file a supplemental brief considering that no new issues material to the case were raised.

In his Manifestation with Motion to Withdraw Appeal,^[14] Villarosa signified his intention to withdraw his appeal, adding that he understood the consequences of his action. In its Resolution,^[15] dated April 8, 2015, the Court granted Villarosa's motion to withdraw his appeal.

Meanwhile, in a letter, dated January 13, 2015, the Bureau of Corrections informed the Court that there was no record of confinement of Davis in all the prison facilities of the said Bureau. In the same resolution, dated April 8, 2015, the Court required the Clerk of Court of the RTC to confirm the confinement of Davis within ten (10) days from notice.

In her Manifestation/Compliance,^[16] dated May 29, 2015, the RTC Branch Clerk of Court, Atty. Rachel G. Matalang (*Atty. Matalang*), reported that Davis was never committed in any detention or prison facility as he posted bail under a surety bond from Summit Guaranty and Insurance Company, Inc. on May 6, 2005 during the pendency of the trial; that on November 12, 2009, during the promulgation of the judgment, Davis and his counsel appeared before the trial court and manifested that he would file a notice of appeal; that no warrant of arrest or commitment order was issued against him; and that she could not confirm the confinement of Davis.

In its Resolution,^[17] dated July 8, 2015, the Court required Davis, the OSG and Summit Guaranty and Insurance Company, Inc., to comment on the manifestation of Atty. Matalang.

In its Comment,^[18] dated October 16, 2015, the OSG asserted that when Davis jumped bail on August 8, 2005, the RTC should have immediately cancelled his bailbond; that he should have been placed under custody after the promulgation of the judgment; and that he had become a fugitive from justice who had lost his standing to appeal.