

THIRD DIVISION

[G.R. No. 211672, June 01, 2016]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOHN
HAPPY DOMINGO Y CARAG, ACCUSED-APPELLANT.**

D E C I S I O N

PEREZ, J.:

We resolve the appeal of John Happy Domingo y Carag (accused-appellant) assailing the 21 November 2012 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 03575. The CA Decision affirmed the ruling of the Regional Trial Court (RTC), Branch 5, Tuguegarao City, Cagayan finding the accused guilty of violating Section 5, Article II of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

The Case

On 27 August 2008, the RTC promulgated a Decision^[2] finding accused-appellant guilty beyond reasonable doubt of violating Section 5, Article II of R.A. No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002 and sentenced him to suffer the penalty of life imprisonment and to pay a fine of Five Hundred Thousand Pesos (P500,000.00). The RTC ruled that the evidence presented by the prosecution successfully established the elements of illegal sale of a dangerous drug as accused-appellant was caught in *flagrante delicto* in a valid buy-bust operation. It noted that the defense of denial and frame-up offered by the defense cannot overturn the presumption of regularity in the performance of official duties accorded to the apprehending officers.

On intermediate appellate review, the CA upheld the RTC ruling. It found no reason to disturb the findings of the RTC as it is in accordance with law and jurisprudence and was based on the evidence presented and proven during trial. The appellate court likewise rejected the claim of accused-appellant that he was framed-up by the apprehending officers because his brother failed to repair the cell phone of the police asset. It agreed with the RTC that it is highly unbelievable that the buy-bust team would concoct such a serious charge against accused-appellant especially considering that it is the police asset, who is not even a member of the buy-bust team, that allegedly has an issue against the brother of accused-appellant. The CA also held that the apprehending officers complied with the proper procedure in the custody and disposition of the seized drug and that the identity of the confiscated drug has been duly preserved and its chain of custody has been properly established by the prosecution.^[3]

Issue

Whether the lower courts gravely erred in finding the accused-appellant guilty for

violation of Section 5, Article II of R.A. No. 9165.^[4]

Our Ruling

We affirm the accused-appellant's conviction.

The elements of illegal sale of dangerous drugs

In the prosecution of a case of illegal sale of dangerous drugs, it is necessary that the prosecution is able to establish the following essential elements: (1) the identity of the buyer and the seller, the object of the sale and the consideration; and (2) the delivery of the thing sold and its payment. What is material is the proof that the transaction or sale actually took place, coupled with the presentation in court of the *corpus delicti* as evidence. The delivery of the illicit drug to the poseur-buyer and the receipt by the seller of the marked money successfully consummate the buy-bust transaction.^[5]

In this case, all of these elements were clearly established. The prosecution's evidence positively identified Police Officer 1 Marcial Eclipse (PO1 Eclipse) as the buyer and accused-appellant as the seller of the *shabu*. The prosecution established through testimony and evidence the object of the sale, which is a heat-sealed transparent plastic sachet containing *shabu* and the two (2) marked Php 100.00 bills, as the consideration thereof. Finally, the delivery of the *shabu* sold and its payment were clearly testified to by prosecution witness PO1 Eclipse.

Accused-appellant denied the accusation that he sold *shabu* to PO1 Eclipse and maintained that it was only in the police station that he first saw the sachet containing the white crystalline substance and the marked money allegedly taken from him. He claimed that the reason for his frame-up was the failure of his brother to repair the cell phone of the police civilian asset Boyet Relos.

Accused-appellant's defense which is anchored mainly on denial and frame-up cannot be given credence. It does not have more evidentiary weight than the positive assertions of the prosecution witnesses. His defense is unavailing considering that he was caught in *flagrante delicto* in a legitimate buy-bust operation. This Court has ruled that the defense of denial or frame-up, like alibi, has been invariably viewed by the courts with disfavor for it can just as easily be concocted and is a common and standard defense ploy in most prosecution for violation of the Dangerous Drugs Act.^[6] Moreover, we agree with the lower courts that the ill-motive imputed on the apprehending officers is unworthy of belief. Accused-appellant's defense that he was framed-up because his brother found it difficult to repair the cell phone of the police asset deserves scant consideration. When the police officers involved in the buy-bust operation have no motive to testify against the accused, the courts shall uphold the presumption that they performed their duties regularly.^[7] In fact, for as long as the identity of the accused and his participation in the commission of the crime has been duly established, motive is immaterial for conviction. As correctly noted by the appellate court, the person who allegedly had a grudge against the brother of the accused-appellant was not even a member of the buy-bust team. He was only a police informant. Moreover, accused-appellant was clearly identified by PO1 Eclipse as the person who sold to him for two

hundred pesos a substance contained in a heat-sealed transparent plastic sachet which later on tested positive for methamphetamine hydrochloride or *shabu*.

Chain of Custody Rule

Accused-appellant also submits that the lower courts failed to consider the procedural flaws committed by the arresting officers in the seizure and custody of drugs as embodied in Section 21, paragraph 1, Article II, R.A. No. 9165.^[8] Accused-appellant alleged that the trial court failed to consider the admission of PO1 Eclipse that the alleged item taken from him was not photographed in the latter's presence and no inventory was made immediately after the alleged operation.

We are not persuaded. The procedure to be followed in the custody and handling of the seized dangerous drugs is outlined in Section 21 (a), Article II of the Implementing Rules and Regulations of R.A. No. 9165, which states:

(a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof: Provided, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; **Provided, further, that non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items[.]** (Emphasis supplied)

The last part of the aforequoted provision stated the exception to the strict compliance with the requirements of Section 21 of R.A. No. 9165. Although ideally the prosecution should offer a perfect chain of custody in the handling of evidence, "substantial compliance with the legal requirements on the handling of the seized item" is sufficient.^[9] This Court has consistently ruled that even if the arresting officers failed to strictly comply with the requirements under Section 21 of R.A. No. 9165, such procedural lapse is not fatal and will not render the items seized inadmissible in evidence.^[10] What is of utmost importance is the preservation of the integrity and evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused.^[11] In other words, to be admissible in evidence, the prosecution must be able to present through records or testimony, the whereabouts of the dangerous drugs from the time these were seized from the accused by the arresting officers; turned-over to the investigating officer; forwarded to the laboratory for determination of their composition; and up to the time these are offered in evidence. For as long as the chain of custody remains unbroken, as in this case, even though the procedural requirements provided for in Sec. 21 of R.A. No. 9165 were not faithfully observed, the guilt of the accused will not be affected.^[12]