

## FIRST DIVISION

[ G.R. No. 202687, January 14, 2015 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JERIC PAVIA Y PALIZA @ "JERIC" AND JUAN BUENDIA Y DELOS REYES @ "JUNE", ACCUSED-APPELLANTS.**

### R E S O L U T I O N

**PEREZ, J.:**

For resolution of the Court is the appeal filed by Jeric Pavia and Juan Buendia (appellants) from the Decision<sup>[1]</sup> of the Court of Appeals (CA) dated 7 February 2012 in CA-G.R. CR-H.C. No. 04020. The CA affirmed the Judgment<sup>[2]</sup> of the Regional Trial Court (RTC), Branch 31, San Pedro, Laguna which found appellants guilty beyond reasonable doubt of the offense of illegal possession of dangerous drugs punishable under Section 13, Article II of Republic Act (R.A.) No. 9165. Appellants were sentenced to suffer the penalty of life imprisonment and to pay a fine of P500,000.00.

#### The Antecedents

On 29 March 2005, at around 6:00 in the evening, a confidential informant reported to SPO3 Melchor dela Peña (SPO3 Dela Peña) of the San Pedro Municipal Police Station, San Pedro, Laguna, that a pot session was taking place at the house of a certain "Obet" located at *Barangay* Cuyab, San Pedro, Laguna. Upon receipt of the information, SPO3 Dela Peña formed a team to conduct police operations against the suspect. The team was composed of the confidential informant, PO2 Rommel Bautista (PO2 Bautista), PO3 Jay Parunggao (PO3 Parunggao), PO1 Jifford Signap and SPO3 Dela Peña as team leader.<sup>[3]</sup>

At around 9:00 in the evening of the same date, the team proceeded to the target area. When the team arrived, the members saw that Obet's house was closed. Since the house was not surrounded by a fence, PO2 Bautista approached the house and peeped through a small opening in a window where he saw four persons in a circle having a pot session in the living room. PO3 Parunggao then tried to find a way to enter the house and found an unlocked door. He entered the house, followed by PO2 Bautista and they caught the four persons engaged in a pot session by surprise. After they introduced themselves as police officers, they arrested the four suspects and seized the drug paraphernalia found at the scene.<sup>[4]</sup> Among those arrested were herein appellants, from each of whom a plastic sachet containing white crystalline substance were confiscated by PO3 Parunggao after he conducted a body search on their persons.<sup>[5]</sup> PO3 Parunggao marked the plastic sachet he seized from appellant Pavia with "JP," representing the initials of Jeric Pavia while that taken from appellant Buendia was marked, also by PO3 Parunggao, with "JB," representing the initials of Juan Buendia.<sup>[6]</sup> These plastic sachets were transmitted to the crime

laboratory for qualitative examination where they tested positive for "*shabu*."<sup>[7]</sup>

Consequently, appellants were charged with violation of Section 13, Article II of R.A. No. 9165 in two separate but identically worded informations which read:

That on or about 29 March 2005, in the Municipality of San Pedro, Province of Laguna, Philippines, and within the jurisdiction of this Honorable Court accused without authority of the law, did then and there willfully, unlawfully and feloniously have in his possession, control and custody [of] METHAMPHETAMINE HYDROCHLORIDE, commonly known as shabu, a dangerous drug, weighing zero point zero two (0.02) gram, in the company of two persons. <sup>[8]</sup>

When arraigned, both appellants pleaded not guilty to the offense.<sup>[9]</sup>

A joint trial of the cases ensued.

In defense, appellants provided a different version of the incident. According to them, on the questioned date and time, they were roaming the streets of *Baranggay Cuyab*, selling star apples. A prospective buyer of the fruits called them over to his house and requested them to go inside, to which they acceded. When they were about to leave the house, several persons who introduced themselves as policemen arrived and invited appellants to go with them to the precinct. There, they were incarcerated and falsely charged with violation of the Comprehensive Drugs Act of 2002.<sup>[10]</sup>

### **The Ruling of the RTC**

The trial court found that the prosecution was able to prove the offense charged through the spontaneous, positive and credible testimony of its witness. The trial court noted that the police officers carried out a lawful arrest before they proceeded with the bodily search of appellants. Moreover, there was no clear and convincing evidence that the team of PO3 Parunggao was inspired by any improper motive when they carried out their operation. Thus, the testimony of PO2 Bautista on the witness stand, narrating the events leading to the apprehension of appellants, deserves full faith and credit.<sup>[11]</sup>

### **The Ruling of the Court of Appeals**

On appeal, the CA affirmed the decision of the RTC, upon a finding that the evidence on record support the trial court's conclusion that a lawful arrest, search and seizure took place, and that the prosecution fully discharged its burden of establishing, beyond reasonable doubt, all the elements necessary for the conviction of the offense charged.<sup>[12]</sup>

On the contention of appellants that their warrantless arrest was illegal and, therefore, the items seized from them as a result of that arrest were inadmissible in evidence against them, the CA held that this argument totally lacks merit. According

to the CA:

We stress at the outset that the [appellants] failed to question the legality of their warrantless arrest. The established rule is that an accused [is] estopped from assailing the legality of [his] arrest if [he] failed to move for the quashing of the *Information* against [him] before [his] arraignment. Any objection involving the arrest or the procedure in the court's acquisition of jurisdiction over the person of an accused must be made before [he] enter[s] [his] plea; otherwise, the objection is deemed waived.

In any event, we carefully examined the records and now hold that the warrantless arrests conducted on [appellants] were valid. Section 5, Rule 113 of the Rules on Criminal Procedure lists the situations when a person may be arrested without a warrant x x x.

x x x x

Paragraph (a) of Section 5 is commonly known as an *in flagrante delicto* arrest. For a warrantless arrest of an accused caught *in flagrante delicto* to be valid, two requisites must concur: (1) the person to be arrested must execute an overt act indicating that he has just committed, is actually committing, or is attempting to commit a crime; and (2) such overt act is done in the presence or within the view of the arresting officer.

After a careful evaluation of the evidence in its totality, we hold that the prosecution successfully established that the petitioner was arrested *in flagrante delicto*.

We emphasize that the series of events that led the police to the house where the pot session was conducted and to their arrest were triggered by a "tip" from a concerned citizen that a "pot session" was in progress at the house of a certain "Obet" at Baranggay Cuyab, San Pedro, Laguna. Under the circumstances, the police did not have enough time to secure a search warrant considering the "time element" involved in the process (i.e., a pot session may not be an extended period of time and it was then 9:00 p.m.). In view of the urgency, SPO3 Melchor dela Peña immediately dispatched his men to proceed to the identified place to verify the report. At the place, the responding police officers verified through a small opening in the window and saw the accused-appellants and their other two (2) companions sniffing "*shabu*" to use the words of PO2 Bautista. There was therefore sufficient probable cause for the police officers to believe that the accused-appellants were then and there committing a crime. As it turned out, the accused-appellants indeed possessed and were even using a prohibited drug, contrary to law. When an accused is caught in *flagrante delicto*, the police officers are not only authorized but are duty-bound to arrest him even without a warrant.

In the course of the arrest and in accordance with police procedures, the [appellants] were frisked, which search yielded the prohibited drug in

their possession. These circumstances were sufficient to justify the warrantless search x x x that yielded two (2) heat-sealed plastic sachets of "shabu." x x x

x x x x

All the x x x requirements for a lawful search and seizure are present in this case. The police officers had prior justification to be at a certain "Obet's" place as they were dispatched by their desk officer; they arrested the [appellants] as they had reason to believe that they were illegally using and possessing a prohibited drug and drug paraphernalia. The search of the [appellants] incident to their arrest yielded the confiscated crystalline substance which later proved to be "shabu". In the course of their lawful intrusion, they inadvertently saw the various drug paraphernalia scattered in the living room. As these items were plainly visible, the police officers were justified in seizing them.

x x x x

As correctly found by the trial court, the [appellants'] story is unworthy of belief. Their denial must fail in the light of the positive identification and declarations made by the prosecution witness. As stated earlier, PO2 Bautista testified in a straightforward and categorical manner regarding the identities of the malefactors. He did not waver despite the defense counsel's rigid questioning.

Courts generally view the defense of denial with disfavor due to the facility with which an accused can concoct it to suit his or her defense. As evidence that is both negative and self-serving, this defense cannot attain more credibility than the testimony of the prosecution witness who testified clearly, providing thereby positive evidence on the various aspects of the crime committed. One such positive evidence is the result of the laboratory examination conducted by the PNP crime Laboratory on the drugs recovered from the [appellants] which revealed that the confiscated plastic sachets tested positive for the presence of "shabu": two (2) heated transparent plastic sachet with markings "JB" and "JP" containing 0.02 gram of white crystalline substance each both yielded positive results.<sup>[13]</sup>

With respect to appellants' claim that the prosecution failed to establish the chain of custody because the police operatives failed to strictly comply with Section 21 (1) of R.A. No. 9165, the CA has this to say:

The chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be.

Contrary to what the [appellants] want to portray, the chain of custody of the seized prohibited drug was shown not to have been broken. After the seizure of the plastic sachets containing white crystalline substance from

the [appellants'] possession and of the various drug paraphernalia in the living room, the police immediately brought the [appellants] to the police station, together with the seized items. PO3 Parunggao himself brought these items to the police station and marked them. The plastic sachets containing white crystalline substance was marked "JB" and "JP". These confiscated items were immediately turned over by PO2 Bautista to the PNP Regional Crime Laboratory Office Calabarzon, Camp Vicente Lim, Calamba City for examination to determine the presence of dangerous drugs. After a qualitative examination conducted on the specimens, Forensic Chemist Lorna Ravelas Tria concluded that the plastic sachets recovered from the accused-appellants tested positive for methylamphetamine hydrochloride, a prohibited drug, per Chemistry Report Nos. D-0381-05 and D-0382-05.

When the prosecution presented these marked specimens in court, PO2 Baustista positively identified them to be the same items they seized from the [appellants] and which PO3 Parunggao later marked at the police station, from where the seized items were turned over to the laboratory for examination based on a duly prepared request.

Thus, the prosecution established the crucial link in the chain of custody of the seized items from the time they were first discovered until they were brought for examination. Besides, as earlier stated, the [appellants] did not contest the admissibility of the seized items during the trial. The integrity and the evidentiary value of the drugs seized from the accused-appellants were therefore duly proven not to have been compromised.

Jurisprudence teems with pronouncements that failure to strictly comply, with Section 21 (1), Article II of R.A. No. 9165 does not necessarily render an accused's arrest illegal or the items seized or confiscated from him inadmissible. What is of utmost importance is the preservation of the integrity and the evidentiary value of the seized items, as these would be utilized in the determination of the guilt or innocence of the accused. In the present case, we see substantial compliance by the police with the required procedure on the custody and control of the confiscated items, thus showing that the integrity of the seized evidence was not compromised. We refer particularly to the succession of events established by evidence, to the overall handling of the seized items by specified individuals, to the test results obtained, under a situation where no objection to admissibility was ever raised by the defense. All these, to the unprejudiced mind, show that the evidence seized were the same evidence tested and subsequently identified and testified to in court.<sup>[14]</sup>

x x x

### **Our Ruling**

We deny the appeal.

Appellants are charged under Section 13, Article II of R.A. No. 9165, which provides: