

SECOND DIVISION

[G.R. No. 208685, March 09, 2015]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RODRIGO CASACOP Y DE CASTRO, ACCUSED-APPELLANT.**

D E C I S I O N

LEONEN, J.:

Failure to observe the chain of custody required under Section 21 of Republic Act No. 9165 or failure to sufficiently explain the reason for non-observance of the chain of custody creates reasonable doubt as to the integrity of the *corpus delicti* in cases involving dangerous drugs.

An Information was filed against accused-appellant Rodrigo Casacop (Casacop), the accusatory portion stating:

That on or about July 24, 2002, in the Municipality of San Pedro, Province of Laguna, Philippines and within the jurisdiction of this Honorable Court, accused Rodrigo Casacop y de Castro without being authorized/permited by law did then and there willfully, unlawfully and feloniously sell and deliver to a poseur buyer for one hundred peso bill (P100.00) one (1) small heat-sealed transparent sachet containing methamphetamine hydrochloride (shabu) weighing zero point zero four (0.04) gram, a regulated drug.

CONTRARY TO LAW.^[1]

Version of the Prosecution

POI Rommel Bautista (POI Bautista) testified that on July 24, 2002, around 9:00 a.m., he, together with Chief Intelligence Officer SPO1 Alvin Glorioso, other police officers, and two (2) assets, conducted a buy-bust operation in Cuyab, San Pedro, Laguna against Casacop.^[2]

The buy-bust operation was based on "information they received that [Casacop] was engaged in the sale of illegal drugs."^[3]

One of the assets acted as the poseur-buyer and brought with him marked money.^[4]

According to POI Bautista, "[t]he poseur-buyer went to the house of [Casacop] to buy shabu."^[5]

POI Bautista testified that he saw Casacop give something to the poseur-buyer. In turn, the poseur-buyer handed over the PI 00.00 marked money to Casacop.^[6]

After the transaction, the poseur-buyer raised his right hand; this was their pre-arranged signal.^[7]

The police officers headed towards Casacop but he tried to escape. They gave chase and were able to apprehend him.^[8]

Casacop was apprised of his constitutional rights.^[9] The small heat-sealed plastic sachet, which the police suspected to contain methamphetamine hydrochloride (shabu), "was marked and sent to the Crime Laboratory for examination."^[10]

Version of the Defense

Casacop testified that around 9:00 a.m. of July 24, 2002, he was asleep in his home.^[11]

Suddenly, someone banged on their door. Casacop was awakened by his wife Zenaida, thinking that he might be arrested for failing to report to his parole officer.^[12]

He jumped out of a window but was eventually arrested by POI Bautista.^[13]

Zenaida Casacop corroborated her husband's testimony. She also testified that her husband did not sell any shabu on July 24, 2002.^[14]

Ruling of the Regional Trial Court

Branch 38 of the Regional Trial Court of San Pedro, Laguna found Casacop guilty and sentenced him to life imprisonment and a fine in the amount of P500,000.00.^[15] The dispositive portion of the trial court's Decision reads:

WHEREFORE, the Court hereby sentences accused RODRIGO CASACOP y DE CASTRO to suffer the penalty of life imprisonment and to pay a fine in the amount of P500,000.00.

The 0.04 grams of Methamphetamine Hydrochloride "shabu" is confiscated and forfeited in favor of the government. Atty. Jaarmy Bolus Romero, Branch Clerk of Court is hereby directed to immediately transmit the 0.04 grams of Methamphetamine Hydrochloride "shabu" to the Dangerous Drugs Board for proper disposition.

SO ORDERED.^[16]

The trial court found Casacop's defense of denial weak compared to the positive testimony of POI Bautista. No evidence was presented to show that POI Bautista had any motive to give false testimony.^[17] As a police officer, he was "presumed to have

regularly performed his duty."^[18]

On the other hand, Zenaida Casacop's testimony was biased, considering that she is Casacop's wife.^[19]

Ruling of the Court of Appeals

The Court of Appeals affirmed the ruling of the trial court. The dispositive portion reads:

WHEREFORE, premises considered, the instant appeal is **DENIED** for lack of merit. The assailed Decision rendered by the Regional Trial Court of San Pedro, Laguna, Branch 93 on November 10, 2008 is **AFFIRMED**.

SO ORDERED.^[20] (Emphasis in the original)

Casacop filed the Notice of Appeal^[21] on January 9, 2013.

The Notice of Appeal was noted and given due course in the Resolution dated January 23, 2013 of the Court of Appeals.^[22]

The case records of CA-G.R. CR.-H.C. No. 03793 were elevated to this court on September 11, 2013.^[23]

In the Resolution dated October 23, 2013, this court noted the records forwarded by the Court of Appeals. This court notified the parties that they may file their respective supplemental briefs within 30 days from notice.^[24]

In the same Resolution, the Chief Superintendent of the New Bilibid Prison was required to confirm Casacop's confinement.^[25]

The Office of the Solicitor General filed a Manifestation^[26] stating that it would not file a supplemental brief since all issues had been addressed in its Appellee's Brief dated March 14, 2010.^[27]

Casacop's confinement at the New Bilibid Prison was confirmed by P/Supt. IV Venancio J. Tesoro in the letter dated December 10, 2013.^[28]

Counsel for Casacop filed the Manifestation^[29] on January 17, 2014 stating that he intended to file either a Supplemental Brief or a Manifestation in lieu of a supplemental brief on February 2, 2014.^[30]

Counsel for Casacop filed another Manifestation^[31] on February 3, 2014 stating that he intended to file a Supplemental Brief on February 17, 2014.^[32]

In the Resolution dated February 17, 2014, this court noted the Manifestations filed by the Office of the Solicitor General and counsel for Casacop, as well as the letter

of confirmation from P/Supt. IV Venancio J. Tesoro. The Manifestation filed by counsel for Casacop dated February 3, 2014 was noted and granted.^[33]

Casacop filed the Supplemental Brief^[34] on February 17, 2014. This was noted in the Resolution dated April 29, 2014. The same Resolution required counsel for Casacop to submit a soft copy of the Supplemental Brief.^[35]

On June 30, 2014, counsel for Casacop complied with the Resolution dated April 29, 2014.^[36] The Compliance was noted in the Resolution dated August 13, 2014.^[37]

The issue for resolution is whether the guilt of accused-appellant Rodrigo Casacop for violation of Section 5 of Republic Act No. 9165 was proven beyond reasonable doubt.

Based on the arguments raised in accused-appellant's Supplemental Brief, the issue may be sub-divided into:

First, whether the guilt of accused-appellant was proven beyond reasonable doubt despite the non-presentation of the informant in court;^[38]

Second, whether the guilt of accused-appellant was proven beyond reasonable doubt despite the non-observance of the required procedure in handling the seized item;^[39] and

Lastly, whether the presumption of regularity in the performance of official duty is sufficient to defeat the presumption of innocence in favor of the accused-appellant.^[40]

Plaintiff-appellee, through the Office of the Solicitor-General, argues that the prosecution was able to prove all the elements of illegal sale of drugs.^[41]

During trial, PO1 Bautista positively identified accused-appellant as the seller of shabu with whom the poseur-buyer transacted.^[42]

Further, PO1 Bautista identified the plastic sachet that he confiscated and the marked money in open court.^[43] Thus, the prosecution was able to prove that the "identity and integrity of the *corpus delicti* was properly preserved and the chain of custody was never compromised."^[44]

Plaintiff-appellee also argues that the governing law in this case is Republic Act No. 6425 or The Dangerous Drugs Act of 1972. Accused-appellant was arrested on July 24 2002, while Republic Act No. 9165 took effect on August 2002.^[45]

According to plaintiff-appellee, Republic Act No. 6425 did not provide for the proper procedure in handling seized items. Nevertheless, the procedure under Section 21 of Republic Act No. 9165 was complied with.^[46]

With regard to the non-presentation of the poseur-buyer in open court, plaintiff-

appellee cited *People v. Abbu*,^[47] stating that:

[t]he failure to present in court the poseur-buyer did not affect the prosecution's case. In *People vs. Lucero*, reiterating previous pronouncements, this court said: "It is now well-settled that except for a situation where the appellant vehemently denies selling any prohibited drugs coupled with the inconsistent testimonies of the arresting officers or coupled with the possibility that there exist reasons to believe that the arresting officers had motives to testify against the appellant, or the situation where it was only the informant-poseur-buyer who witnessed the entire transaction, the testimony of the informant-poseur-buyer can be dispensed with as it will be merely corroborative of the apprehending officers-eyewitnesses' testimonies."^[48]

On the other hand, accused-appellant points out that POI Bautista gave inconsistent and contradictory statements.^[49]

In his Supplemental Brief, accused-appellant argues that there must be caution in giving credence to POI Bautista's testimony since he did not have personal knowledge of the sale. It was the poseur-buyer, not POI Bautista, who transacted with accused.^[50]

Accused-appellant argues that the poseur-buyer, who was also the informant, did not testify in open court.^[51] Further, the chain of custody was broken, as shown by POI Bautista's failure to state where the plastic sachet was marked.^[52] The seized item was not inventoried by the arresting officers.^[53] Hence, POI Bautista "did not perform his official duties."^[54]

Assuming that the buy-bust operation and the warrantless arrest were valid, the police officers did not comply with Section 21 of Republic Act No. 9165. Thus, accused must be acquitted.^[55]

We grant the appeal and acquit accused-appellant Rodrigo Casacop y De Castro.

The elements of Section 5^[56] of Republic Act No. 9165 are:

(1) the identity of the buyer and the seller, the object and the consideration; and (2) the delivery of the thing sold and the payment. What is material is the proof that the transaction actually took place, coupled with the presentation before the court of the *corpus delicti*.^[57]
(Citations omitted)

In dangerous drugs cases, the *corpus delicti* is the dangerous drug itself. Thus, it is imperative that the integrity of the seized dangerous drug be preserved.^[58]

Accused-appellant alleges that the chain of custody was broken. He argues that the