

SECOND DIVISION

[G.R. No. 212940, September 16, 2015]

CHRISTOPHER DELA RIVA Y HORARIO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

DECISION

MENDOZA, J.:

Challenged in this petition for review is the February 13, 2014 Decision^[1] of the Court of Appeals (CA), in CA-G.R. CR-HC No. 05895, which affirmed the August 30, 2012 Decision^[2] of the Regional Trial Court, Branch 75, Olongapo City (RTC), finding the petitioner, accused Christopher Dela Riva y Horario (*Dela Riva*), guilty beyond reasonable doubt for violation of Section 5, Article II of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

The Facts

On April 29, 2009, an Information was filed charging accused with violation of Section 5, Article II of R.A. No. 9165. The accusatory portion of the Information reads:

That on or about the 28th day of April 2009, at about 6:00 in the morning, in Brgy. Calapacuan, Municipality of Subic, Province of Zambales, Philippines, and within the jurisdiction of this Honorable Court, the said accused, did then and there willfully, unlawfully and feloniously without any lawful authority, give away, deliver and sell one (1) heat-sealed transparent plastic sachet weighing 1.3095 grams of Methamphetamine Hydrochloride, known as 'shabu,' a dangerous drug, to a poseur-buyer for One Thousand (Php1, 000.00) Pesos marked money.

CONTRARY TO LAW.^[3]

On June 3, 2009, Dela Riva was arraigned and he pleaded not guilty to the offense charged.

Prosecution version and evidence

On April 27, 2009 a confidential agent reported to the officers at the National Headquarters Special Enforcement Services, Philippine Drug Enforcement Agency (PDEA) Headquarters at Brgy. Piñahan, Quezon City that a certain Chris, who turned out to be appellant herein, is doing illegal drug activities at Brgy. Calapacuan, Subic, Zambales.

Acting on the report, a briefing was conducted to entrap the suspect. IO1

Enrique Lucero was assigned as the poseur-buyer. The briefing was followed by a pre-operation report and an authorization to operate. A Certificate of Coordination was then issued by the PDEA National Operating Center. Such a document is issued whenever an operation is to be conducted outside the national headquarters. Boodle money in the amount of P60,000.00 was prepared with two (2) P500.00 as the actual money placed on top of the bundle. Said amount was for ten (10) grams of shabu as agreed between the confidential agent and herein appellant.

Said buy-[bust] operation was intended for two (2) targets, appellant herein and a certain Jun Magsaysay. After the preparation was done, the team proceeded from Manila to Subic on April 28, 2009. The team stopped at Angeles City around 8 o'clock in the evening and stayed there for about three (3) hours because the confidential agent received a text message from appellant that the ten (10) grams of shabu [was] not yet complete.

At 2 o'clock, the team then proceeded to Subic and arrived at the target area around 5 o'clock. The specific location was at Maniago Street, Brgy. Calapuan, Subic. Those who went to Maniago Street were Agent Lucero, Agent Tumabini, Agent Fajardo and the civilian asset. The rest of the team or the back-up team stayed at the National Highway at Brgy. Calapuan.

The team waited at the vehicle near a residential place with a store and after a few moments, appellant appeared. The confidential agent and Agent Lucero approached appellant and introduced Agent Lucero. Agent Lucero then asked appellant for the agreed item to which the latter replied, "*Andito na pare pero kulang pa.*" Appellant then invited them to go to a certain Abu to get the rest of the items and then proceeded to Abu's house.

The trio walked to the house of "Abu" which was about fifteen (15) to twenty (20) meters away. The house is located in a squatter area and the walls were dilapidated. The three (3) entered the house which has no bedroom but with a curtain to separate some parts of it. Inside, they saw two (2) persons having a pot session.

Agent Lucero then asked appellant for the rest of the items who upon saying "sa akin na lang muna pare" handed to him from his pocket a small transparent plastic sachet. Agent Lucero then put the small sachet in the right pocket of his pants. Agent Lucero again asked for the rest and appellant asked for the payment. Agent Lucero then handed to appellant the boodle money which was placed in an envelope.

While appellant is opening the envelope, Agent Lucero made a missed call to their team leader but after a few seconds they heard a voice shouting from the outside, "Abu-Abu." The two (2) persons who were having pot session inside the house then rushed to the door and run outside and Agent Lucero introduced himself to appellant as PDEA Agent and arrested him. The back-up team then entered the house to assist in the arrest while others chased the two (2) persons who ran away.

However, they were not able to catch them.

The team saw in plain view some paraphernalia inside the house and these were two (2) pieces aluminum foil, improvised water pipe, five (5) pieces disposable lighters and several transparent plastic sachets. They confiscated said items.

After informing appellant of his rights, they immediately left the area. The inventory was conducted at the National Headquarters of PDEA for security and safety considerations. The inventory was witnessed and also signed by a Barangay Kagawad while photographs were also taken.

A request for the laboratory examination of the specimen yielded positive results for the presence of methamphetamine hydrochloride. Appellant's urine was also tested and yielded positive for the presence of methamphetamine hydrochloride.^[4]

The prosecution offered the following exhibits as evidence:

- Exhibit "A" - Pre-operation Report^[5]
- Exhibit "B" - Authority to Operate^[6]
- Exhibit "C" - Certificate of Coordination^[7]
- Exhibit "D" to "E" - marked money^[8]
- Exhibit "F" - white window envelope and boodle money
- Exhibit "G" - Inventory of Seized Evidence^[9]
- Exhibit "H" - photograph of witnesses signing the inventory^[10]
- Exhibit "I" - photograph of seized drug and paraphernalia^[11]
- Exhibit "J" and series - shabu and drug paraphernalia
- Exhibit "K" to "K-1" - Letter Request for Drug Testing^[12]
- Exhibit "L" - Chemistry Report^[13]
- Exhibit "M" - Letter Request for Drug Testing^[14]
- Exhibit "N" - Letter Request for Physical/Medical Examination^[15]
- Exhibit "O" - Result of the Physical Examination^[16]
- Exhibit "P" and series - Sworn Statement of the Poseur-Buyer^[17]
- Exhibit "Q" - PDEA Certification^[18]
- Exhibit "R" to "R-1" - Booking Sheet and Arrest Report^[19]
- Exhibit "S" and series - Chemistry Report for Drug Test^[20]

Defense Version and evidence

According to the accused, xxx he was already detained at the PDEA on April 28, 2009 at around 6:00 o'clock in the morning, as he was arrested on April 26, 2009 at about 10:00 in the afternoon at Barangay Calapacuan, Subic, Zambales, while at the house of his grandfather Ronnie Horario. At that time, he received a cellphone call from a certain Jovann inviting him to go to the casino, and they agreed that the latter would fetch accused. Accused decided to go home at Rizal, San Marcelino, Zambales, because Jovann was not replying to his text message. While he was waiting for a passenger jeep, Jovann arrived on board a CRV, and invited accused to board. Inside the vehicle were four

passengers including the driver, and Jovann introduced accused to them. They went to SBMA and accused thought that they would play at the casino, but instead they travelled through SCTEX and accused was told that they would play casino at Angeles City.

Accused felt nervous and started asking where they were really heading. The driver told him to just relax and they will soon reach their destination. Accused tried to control his fear as he was with a friend, and from then on they used to play at the Oriental Casino, SBMA, every weekend.

Accused was brought at the PDEA Headquarters in Quezon City, and when he asked why they were there, Jovann told him to be silent. The man seated beside accused gave him a handcuff and told him to wear it. Accused asked what his violation was, but a gun was poked at his chest. A man told him in a loud voice to wear the handcuffs, and he obeyed. He was investigated inside an office and was told that he was selling drugs which he denied. After asking his personal circumstances he was asked for a "palit-ulo" meaning, that he should produce another person selling drugs in exchange for his release, but accused denied any knowledge of anyone involved in drug trade.

Accused was then told to sign the Booking Sheet Arrest Report which he did. He just filled up the portion for his personal circumstances and name of relatives but the other entries were provided by the investigator, and then he signed the document. The pictures were taken on April 27, 2009 prior to the alleged arrest on April 28, 2009. Agent Enrique Lucero was not among those in the vehicle and he first saw him at the office. Accused is not aware of the execution of the Inventory of Seized Items and he did not see the Kagawad who allegedly signed it. At the PDEA Compound were several men in uniform and one of them investigated accused. He did not see Jovann anymore. Accused denied that the items in the inventory were taken from him. Accused former counsel demanded copy of the logbook and blotter of his departure and arrival to prove that he was arrested on April 26 and not on April 28, 2009, but nothing happened to the request.^[21]

Dela Riva offered the following exhibits as evidence:

Exhibit "1" - Booking Sheet and Arrest Report

Exhibit "2" - Pictures of the accused taken on April 28, 2009^[22]

The RTC Ruling

On August 30, 2012, the RTC convicted Dela Riva for the offense charged, stating that the prosecution was able to establish his guilt with moral certainty based on the consistent, positive, straightforward, convincing, and credible testimonies of the police witnesses and the supporting documentary and object evidence it presented. The RTC found that all the elements of the crime were established, to wit: 1) the identity of the buyer and the seller, the object and consideration; and 2) the delivery of the thing sold and the payment thereof.

The RTC did not give weight to the defense of frame-up put up by Dela Riva as it could not prevail over the positive declaration of the poseur-buyer and the compelling documentary evidence shown by the prosecution. The trial court opined that the procedural lapse committed by the apprehending team with respect to the requirements under Section 21 of R.A. No. 9165 was not fatal to its cause because the integrity and the evidentiary value of the seized items were properly preserved and safeguarded by the apprehending officers.

The RTC stated that the chain of custody of the seized drug, which involved only one (1) sachet of *shabu*, was continuous and unbroken. In the absence of proof of tampering of evidence, bad faith and ill will on the part of the buy-bust team, the police officers were to be presumed to have regularly performed their duties. The RTC, thus, disposed:

WHEREFORE, the Court finds CHRISTOPHER DELA RIVA GUILTY beyond reasonable doubt of Violation of Sec. 5, RA 9165 and sentences him to suffer the penalty of life imprisonment and to pay a fine of P500,000.00 plus cost, without subsidiary imprisonment in case of insolvency.

The accused shall also suffer the accessory penalties under Section 35, RA 9165 and shall be credited in the service of his sentence with the full time during which he has undergone preventive imprisonment subject to the conditions imposed under Art. 29 of the Revised Penal Code as amended.

The sachet of shabu marked Exh. 'J' of the Prosecution is ordered confiscated in favor of the government and to be disposed of in accordance with law.

SO DECIDED. [23]

The CA Ruling

On appeal, the CA affirmed the decision of the RTC. It basically stated that the integrity of the drugs seized from the accused was preserved and that the chain of custody of the subject drugs was unbroken. The CA pointed out that the confiscated drugs remained under the care of PDEA Agent Lucero (*Agent Lucero*) until he reached the PDEA National Headquarters at Barangay Piñahan, Quezon City. He immediately marked the same with his signature in the presence of the accused and Barangay Kagawad Jose Ruiz before turning it over to the crime laboratory for examination. Subsequently, the same sachet bearing the same markings was completely examined within 24 hours of seizure by Chemist Engineer Elaine E. Erno and found to be positive for *methamphetamine hydrochloride*, a dangerous drug.

The CA pointed out that non-compliance with the strict directive of Section 21 of R.A. No. 9165 was not necessarily fatal to the prosecution case as long as there were justifiable grounds for the lapses committed and the integrity and evidentiary value of the evidence seized were preserved.

The CA added that when the prosecution presented the transparent plastic sachet before the Court, Agent Lucero positively identified it as one which came from Dela Riva. The appellate court stated that the integrity of the evidence was presumed to