

FIRST DIVISION

[G.R. No. 206770, April 02, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NOEL
PRAJES AND ALIPA MALA, ACCUSED-APPELLANTS.**

D E C I S I O N

REYES, J.:

Before the Court is an appeal from the Decision^[1] dated May 30, 2012 of the Court of Appeals (CA) in CA-G.R. CEB CR-HC No. 00462, which affirmed the Decision^[2] dated June 29, 2004 of the Regional Trial Court (RTC) of Cebu City, Branch 15, finding Noel Prajes (Prajes) and Alipa Mala (Mala) (accused-appellants) guilty 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 Antecedents

The accused-appellants were accused of violating Section 5, Article II of R.A. No. 9165 *via* an Information filed with the RTC of Cebu and docketed as Crim. Case No. CBU-63836. The accusatory portion of the Information reads:

That sometime on 04 September 2002, in the City of Cebu, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conniving and confederating with each other and mutually helping one another, with deliberate intent, did then and there sell, trade, dispense, deliver and/or give away to a National Bureau of Investigation Operative who posed as buyer: White Crystalline substances having a total net weight of 195.6580 grams placed inside three (3) transparent plastic packs: positive for methylamphetamine hydrochloride, a dangerous drug locally known as shabu, without authority of law.^[3]

The accused-appellants pleaded "not guilty" when arraigned. After pre-trial, trial on the merits ensued.^[4]

According to the prosecution, the National Bureau of Investigation (NBI) in Cebu City received reports that the accused-appellants were engaged in the sale of illegal drugs. Following surveillance operations conducted during the last week of August 2002, a buy-bust operation was organized by the NBI for September 4, 2002.^[5]

Thus, at around 1:00 p.m. on September 4, 2002, NBI's informant, Rene Sabayton (Sabayton) transacted with the accused-appellants for a supposed buyer's purchase of *shabu* weighing 200 grams for P180,000.00.^[6] At 4:00 p.m., the buy-bust team, headed by Senior Agent Atty. Angelito Magno (Atty. Magno) and composed of NBI

Supervising Agent Vicente Minguez (SA Minguez), Special Investigator Teodoro Saavedra (SI Saavedra), SI Ray Tumalon (SI Tumalon), SI Danilo Garay and SA Rennan Oliva, proceeded to Kinasang-an, Pardo, Cebu City where the purchase would be made. SI Tumalon was designated the poseur-buyer. Atty. Magno prepared the buy-bust money amounting to P4,500.00, composed of nine P500.00 bills dusted with fluorescent powder and which were combined with boodle money.^[7]

As previously arranged with Sabayton, Prajes met up with Sabayton and SI Tumalon in a makeshift house in Kinasang-an, where Mala later joined them. Since Prajes had not brought with him the illegal drugs to be sold, the group proceeded to his father's house which was only 15 to 20 meters away from the makeshift house^[8] and there, SI Tumalon received the illegal drugs from Prajes.

While they were at the ground floor of the house, Prajes handed to SI Tumalon two packs of *shabu* having a total weight of 100 grams. When SI Tumalon pointed out that he needed 200 grams, Prajes instructed Mala to produce more stock. Mala left the house, then later came back with another pack, which he handed to SI Tumalon. Thereafter, SI Tumalon gave one bundle of the buy-bust money to Prajes, and the other bundle to Mala.^[9]

Upon the accused-appellants' receipt of the buy-bust money, SI Tumalon introduced himself to them as an NBI agent. SI Tumalon made a "missed call" to SA Minguez's phone, the team's pre-agreed signal to indicate that the sale had been consummated, and then arrested the accused-appellants.^[10] Soon thereafter, the other members of the buy-bust team arrived. The accused-appellants were handcuffed and brought to the NBI office, where their photographs and fingerprints were taken.^[11] At the NBI office, SI Tumalon handed the buy-bust money and three packs of *shabu* to SI Saavedra, who placed his markings on the packs of *shabu*. SI Saavedra also prepared the letter-request for examination of the illegal drugs, which he personally turned over to Chemist Rommel Paglinawan^[12] of the Forensic Chemistry Section, Central Visayas Regional Office of the NBI. A laboratory examination of the three packs sold by the accused-appellants to SI Tumalon confirmed that the specimen contained methylamphetamine hydrochloride or *shabu*. An ultraviolet examination performed by the NBI also confirmed the presence of fluorescent powder on the accused-appellants' hands.

The accused-appellants denied the charge against them. Prajes claimed that at about 4:00 p.m. on September 4, 2002, he was sleeping at his house in Kinasang-an when a neighbor, Renante Paradero (Paradero), woke him up to inform him that some persons were looking for him. He then proceeded to Paradero's house and there saw Sabayton, whom he had previously met in a "sniffing session" and who had called him up at around 1:00 p.m. on September 4, 2002 for the purchase of *shabu*. Sabayton was with two companions, who inquired from Prajes about the purchase. Prajes, Sabayton and his two companions then proceeded to the house of Prajes' father, where Prajes received the drugs from a person sent by a certain "Alex". Prajes handed the pack of *shabu* to Sabayton, then was immediately handcuffed by SI Tumalon. Sabayton hit Prajes' handcuffed right hand with money that was brought by the buy-bust team. Thereafter, Prajes was taken to the NBI Office.

For Mala's defense, witness Magdalena Abarquez claimed that at around 4:00 p.m.

on September 4, 2002, she saw Mala enter the house of Prajes. When he tried to leave the house, he was prevented by someone who was inside the house.^[13]

Sabayton was called on the witness stand by the defense as a hostile witness. He claimed that he was arrested by NBI operatives on September 3, 2002. While at the NBI office, the operatives asked for a gift or "*regalo*" by giving names of persons whom they could arrest, in exchange for his freedom. Thus, he gave the name of Prajes and coordinated with the latter for the drug purchase.^[14] After Prajes presented the *shabu* to Sabayton during the buy-bust operation, he called on Mala to test and sniff the *shabu*. Before the latter could do so, SI Tumalon pointed a gun at the accused-appellants and handcuffed them. When Prajes refused to receive the buy-bust money, SI Tumalon slapped the money on Prajes' handcuffed hands. Notwithstanding Sabayton's participation in the buy-bust which led to the arrest of the accused-appellants, he was neither released from jail nor relieved from prosecution for his violation of R.A. No. 9165.^[15]

The RTC Ruling

On June 29, 2004, the RTC of Cebu City, Branch 15, rendered a Decision^[16] finding the accused-appellants guilty for violation of Section 5, Article II of R.A. No. 9165, and sentencing them to each suffer the penalty of life imprisonment and to pay fine of P500,000.00.^[17] Dissatisfied with the trial court's ruling, the accused-appellants appealed to the CA.

The CA Ruling

In a Decision^[18] dated May 30, 2012, the CA affirmed *in toto* the decision of the RTC. The appellate court found no credence in the denials that were posed by the accused-appellants. Instead, it found credible the evidence presented by the prosecution to prove the elements of the crime of illegal sale of drugs, as well as its showing that there was sufficient compliance by the NBI operatives with the rule on chain of custody.

The Present Appeal

Hence, the present appeal wherein the accused-appellants insist on the prosecution's failure to prove their guilt beyond reasonable doubt. The accused-appellants also question the subject drugs' identity and the NBI's observance of the rule on the chain of custody. They argue that it was unclear as to who actually marked the subject packs of *shabu*, and that there were no photographs and physical inventory of the seized items, even when the same are required under the law.

This Court's Ruling

The appeal is bereft of merit.

At the outset, the Court reiterates the settled rule that "the findings of the trial court, its calibration of the testimonies of the witnesses, and its assessment of the probative weight thereof, as well as its conclusions anchored on said findings are accorded respect if not conclusive effect. This is truer if such findings were affirmed

by the appellate court. When the trial court's findings have been affirmed by the appellate court, x x x, said findings are generally binding upon us[,]”^[19] save in settled exceptions such as: (1) when the inference made is manifestly mistaken, absurd or impossible; (2) when there is grave abuse of discretion; (3) when the findings are grounded entirely on speculations, surmises or conjectures; (4) when the judgment of the CA is based on misapprehension of facts; (5) when the CA, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (6) when the findings of fact are conclusions without citation of specific evidence on which they are based; (7) when the CA manifestly overlooked certain relevant facts not disputed by the parties and which, if properly considered, would justify a different conclusion; and (8) when the findings of fact of the CA are premised on the absence of evidence and are contradicted by the evidence on record.^[20] Upon review, the Court has determined that the present case does not fall under any of these exceptions. We find no cogent reason to deviate from the factual findings, and consequent rulings, of the trial and appellate courts.

On the issue of chain of custody, Section 21 of R.A. No. 9165 mandates that “[t]he apprehending team having initial custody and control of the [seized] 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[.]” In relation thereto, Section 21 of the law’s Implementing Rules and Regulations (IRR) provides in part:

SECTION 21. Custody and Disposition of Confiscated, Seized and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. — x x x:

(a) x x x 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[.]

These “[s]tatutory rules on preserving the chain of custody of confiscated prohibited drugs and related items are designed to ensure the integrity and reliability of the evidence to be presented against the accused. Their observance is the key to the successful prosecution of illegal possession or illegal sale of prohibited drugs.”^[21]

In a line of cases, the Court has nonetheless explained that “while the chain of