

SECOND DIVISION

[G.R. No. 190623, November 17, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROMMEL ARAZA Y SAGUN, A CAUSED-APPELLANT.**

DECISION

DEL CASTILLO, J.:

In this appeal, appellant Rommel Araza y Sagun (Araza) assails the October 14, 2009 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 03164 which affirmed the December 11, 2007 Decision^[2] of the Regional Trial Court (RTC), Branch 93, San Pedro, Laguna in Criminal Case No. 3829-SPL finding him guilty beyond reasonable doubt of illegal possession of *shabu*.

Factual Antecedents

On August 15, 2003, an Information^[3] for violation of Section 11, Article II, Republic Act No. 9165 (RA 9165) otherwise known as the Comprehensive Dangerous Drugs Act of 2002-was filed against Araza, the accusatory portion of which reads as follows:

That on or about August 28, 2002, in the Municipality of San Pedro, Province of Laguna, Philippines and within the jurisdiction of this Honorable Court the said accused, not being authorized by law, did then and there willfully, unlawfully and feloniously have in his possession, control and custody one (1) small heat-sealed transparent plastic sachet containing METHAMPHETAMINE HYDROCHLORIDE commonly known as "shabu," a dangerous drug, weighing zero point zero six (0.06) gram.

CONTRARY TO LAW.^[4]

During arraignment, Araza pleaded "not guilty."^[5] Thereafter, trial ensued.

Version of the Prosecution

The prosecution presented Police Officer 1 Edmund Talacca (PO1 Talacca) who testified as follows:

At around 8:00 p.m. of August 28, 2002, PO1 Talacca accompanied the *Barangay* Chairman, *Barangay* Tanods and several members of the *barangay* council in confiscating a video *karera* machine inside the house of a certain Alejandro Sacdo (Sacdo). While confiscating said machine, PO1 Talacca saw nine persons, including Araza, sniffing *shabu* or engaging in a pot session inside the house of Sacdo. He

arrested and frisked them. Recovered from the pocket of Araza was a small heat-sealed transparent plastic sachet containing white crystalline substance which PO1 Talacca suspected to be *shabu*. PO1 Talacca immediately seized said sachet and brought Araza and his companions to the police station. He turned over the said sachet to the chief investigator, Larry Cabrera (Cabrera), who marked the same with the initials "RSA" in his presence.

The prosecution was supposed to also present Police Senior Inspector Donna Villa Huelgas (P/Sr. Insp. Huelgas), the Forensic Chemist who examined the confiscated white crystalline substance, but her testimony was dispensed with after the defense agreed to the following stipulations: 1) Chemistry Report No. D-2028-02 as Exhibit "B"; 2) the name of suspect Rommel Araza y Sagun as Exhibit "B-1"; 3) the specimen submitted as Exhibit "B-2"; 4) findings as Exhibit "B-3"; 5) conclusion as Exhibit "B-4"; 6) the name and signature of P/Sr. Insp. Huelgas as Exhibits "B-5"; 7) the request for laboratory examination as Exhibit "C"; 8) the name of suspect Rommel Araza y Sagun as Exhibit "C-1"; 9) the evidence submitted as Exhibit "C-2"; 10) the stamp mark as Exhibit "C-3"; 11) the half-size white envelope as Exhibit "D"; 12) the plastic sachet as Exhibit "D-1"; and 13) the small heat-sealed plastic sachets as Exhibit "D-1 -A."^[6]

Version of the Defense

The defense presented a completely different version of the incident. Araza testified that he was sleeping inside a room in the house of Sacdo when PO1 Talacca suddenly woke him up and frisked him. PO1 Talacca confiscated his wallet that contained coins then took him to the police station and charged him with illegal possession of prohibited drugs.

Ruling of the Regional Trial Court

The RTC ruled that the prosecution was able to establish the guilt of Araza beyond reasonable doubt. It gave credence to the testimony of PO1 Talacca since he is presumed to have regularly performed his duties and there was no evidence that he had any motive to falsely testify against Araza. The RTC rejected Araza's alibi as a feeble defense that cannot prevail over the positive testimony of PO1 Talacca. The dispositive portion of the December 11, 2007 Decision^[7] of the RTC reads:

WHEREFORE, the Court hereby sentences accused ROMMEL ARAZA y SAGUN to suffer an indeterminate penalty of imprisonment from twelve (12) years and one (1) day as minimum to fifteen (15) years as maximum and to pay a fine in the amount of P300,000.00.

The 0.06 gram of Methamphetamine Hydrochloride "shabu" which constitutes the instrument in the commission of the crime is confiscated and forfeited in favor of the government. Atty. Jaarmy Bolus-Romero, Branch Clerk of Court, is hereby directed to immediately transmit the 0.06 [gram] of Methamphetamine Hydrochloride "shabu" to the Dangerous Drugs Board for proper disposition.

Costs against accused.

SO ORDERED.^[8]

Araza filed a notice of appeal^[9] which was approved by the RTC. Hence, the entire records of the case were forwarded to the CA.^[10]

Ruling of the Court of Appeals

In his brief,^[11] Araza highlighted PO1 Talacca's admission under oath that the *shabu* was confiscated from his pocket and not in plain view. He posited that the *shabu* is inadmissible in evidence since it was illegally seized, having been taken from his pocket and not as an incident of an arrest *in flagrante delicto*. Arazá likewise argued that the rule on chain of custody was not properly adhered to since there was no evidence that a physical inventory of the *shabu* was conducted in the presence of any elected local government official and the media. He claimed that the possibility of tampering, alteration or substitution of the substance may have been present since the investigating officer who marked the seized *shabu* in the police station and the person who delivered the same to the crime laboratory were not presented during the trial.

The CA, however, was not impressed. It ruled that Araza was estopped from assailing the legality of his arrest for his failure to move to quash the Information against him prior to arraignment. It also held that he could no longer question the chain of custody for failing to raise the same during trial. Besides, the prosecution was able to establish the integrity and evidentiary value of the seized item. Thus, the CA issued its assailed Decision^[12] with the following dispositive portion:

WHEREFORE, the assailed Decision dated 11 December 2007 of the Regional Trial Court, Fourth Judicial Region, San Pedro, Laguna, Branch 93, in Criminal Case No. 3829-SPL, is hereby AFFIRMED.

SO ORDERED.^[13]

Hence, this appeal where Araza seeks for his acquittal.

Issues

On February 15, 2010, the parties were directed to file their respective supplemental briefs but both of them opted to just adopt the brief they submitted before the CA.

Araza imputes error upon the RTC and CA in upholding the validity of his warrantless arrest and in finding that the procedure for the custody and control of prohibited drugs was complied with.^[14]

Our Ruling

The appeal is unmeritorious.

The offense of illegal possession of dangerous drugs has been established.

The elements that must be established in the successful prosecution of a dangerous drugs case are: "(1) the accused is in possession of an item or object which is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the drug."^[15] "Mere possession x x x of a prohibited drug, without legal authority, is punishable under [RA9165]."^[16]

The prosecution satisfied the foregoing elements during trial. The arresting officer, PO1 Talacca, positively identified Araza as the person caught in possession of the *shabu* presented in court. He stated that the *shabu* was validly confiscated after Araza was arrested *in flagrante delicto* sniffing *shabu* in the company of other people. Relevant portions of his testimony are as follows:

Q Do you recall where you were on August 28, 2002 at around 8:00 o'clock in the evening?

A Yes, ma'am, I was with the barangay chairman of Brgy. Langgam, San Pedro, Laguna, Police Officer Mendoza, some members of the barangay council and members of the barangay tanod[. W]e went to Brgy. Langgam to conduct a confiscation of video karera in the house of Alejandro Sacdo.

x x x x

Q When you arrived at the house of Alejandro Sacdo, what happened?

A We [went directly] to the house of Alejandro Sacdo [where] we found a video karera.

Q What did you do when you saw that there was a video karera machine inside the house?

A The barangay chairman and [the] members of our group immediately confiscated the video karera machine.

Q Was Alejandro Sacdo inside his house then?

A Yes, ma'am, he was present.

x x x x

Q Aside from Alejandro Sacdo, who else, if any, was inside that house?

A There were all in all nine persons, including Alejandro Sacdo.

Q What were they doing?

A They were inside the house of Alejandro Sacdo sniffing *shabu*.

Q After that, what did you do?

A I called the attention of our companions, the barangay officials and the tanods and we immediately [entered] the house and arrested these nine people.

Q After you arrested the nine people, including Alejandro Sacdo, what happened next?

A When we arrested the nine persons, it is our standard operating procedure to search each suspect and when I searched Mr. Araza, I found one small heat[-]sealed plastic sachet [on] him.

- Q You retened to Mr. Rommel Araza y Sagun as the one from whom you were able to confiscate a small heat[-]sealed plastic [sachet], if he is in court right now, will you be able to identify him?
- A Yes, ma'am, there he is (witness pointing to a man seated inside the courtroom who identified himself as Rommel Araza y Sagun)
- Q After you arrested the nine persons including Alejandro Sacdo and herein accused Araza and after confiscating from him the small heat[-] sealed plastic sachet, what did you do next?
- A We brought them to the barangay hall of Brgy. Langgam.
- Q What did you do next?
- A After we [took down their names and pertinent details] in the blotter, all of them were brought to the police station for investigation and proper filing of case against them.
- Q What did you do with the specimen you confiscated from Araza?
- A I gave it to our chief investigator, Officer Larry Cabrera, for proper [marking] of the specimen and for them to deliver the same to the crime laboratory for examination.
- Q Where were you then when the police investigator put the markings on the specimen?
- A I was in front of him, ma'am.
- Q Did you see what markings were placed on the specimen?
- A Yes, ma'am, it was RSA which stands for the name of Rommel Araza y Sagun.^[17]

Chemistry Report No. D-2028-02 confirmed that a qualitative examination conducted on the specimen inside the plastic sachet seized from Araza yielded positive result for methamphetamine hydrochloride or *shabu*.^[18]

We find the statement of PO1 Talacca to be credible. The narration of the incident by a police officer, "buttressed by the presumption that they have regularly performed their duties in the absence of convincing proof to the contrary, must be given weight."^[19] His testimony, the physical evidence and the facts stipulated upon during trial were consistent with each other. Araza also failed to adduce evidence showing that he had legal authority to possess the seized drugs. Thus, there is no reason to disturb the findings of the RTC as affirmed by the CA.

An accused cannot assail any irregularity in the manner of his arrest after arraignment

Araza calls attention to the admission of PO1 Talacca that the *shabu* was confiscated from his pocket and was not in plain view. He therefore posits that he was not apprehended *in flagrante delicio* and the ensuing warrantless arrest was invalid. Moreover, the sachet allegedly seized from him is not admissible in evidence against him being the fruit of a poisonous tree.

Such an argument is unworthy of credence since objections to a warrant of arrest or the procedure by which the court acquired jurisdiction over the person of the accused must be manifested prior to entering his plea.^[20] Otherwise, the objection