

SECOND DIVISION

[G.R. No. 193385, December 01, 2014]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DATS GANDAWALI Y GAPAS AND NOL PAGALAD Y ANAS, ACCUSED-APPELLANTS.

RESOLUTION

DEL CASTILLO, J.:

For final review is the June 21, 2010 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 03736, which affirmed the November 18, 2008 Decision^[2] of the Regional Trial Court (RTC), Branch 82 of Quezon City in Criminal Case No. Q-03-118597 finding appellants Dats Gandawali y Gapas (Gandawali) and Nol Pagalad^[3] y Anas (Pagalad) guilty beyond reasonable doubt of Violation of Section 5, Article II of Republic Act No. 9165 (RA 9165) or the Comprehensive Dangerous Drugs Act of 2002.

Factual Antecedents

On July 3, 2003, an Information^[4] for Violation of Section 5, Article II of RA 9165 was filed against Gandawali and Pagalad, viz:

That on or about the 30th day of June 2003, in Quezon City, Philippines, the said accused, conspiring together, confederating with and mutually helping each other, not being authorized by law to sell, dispense, deliver[,] transport, or distribute any dangerous drug, did then and there, willfully and unlawfully sell, dispense, deliver, transport, distribute or act as broker in the said transaction, zero point twenty four (0.24) gram of white crystalline substance containing methylamphetamine hydrochloride[,] a dangerous drug.

CONTRARY TO LAW.^[5]

When arraigned on September 3, 2003, both Gandawali and Pagalad pleaded "not guilty"^[6] to the charge. Pre-trial and trial ensued.

Version of the Prosecution

On June 30, 2003, a confidential informant informed the Baler Police Station 2 that a possible drug deal would take place at the corner of Sto. Niño St. and Roosevelt Avenue, San Francisco Del Monte, Quezon City. A buy-bust team was thereupon created composed of P/Insp. Joseph de Vera (P/Insp. De Vera), as team leader; PO2 Sofjan Soriano (PO2 Soriano), as the poseur-buyer who was given a P500.00 bill as buy-bust money; and PO1 Alvin Pineda (PO1 Pineda), PO1 Ernesto Sarangaya (PO1

Sarangaya), PO2 John John Sapad (PO2 Sapad), and PO2 Eric Jorgensen (PO2 Jorgensen), as members.

The team along with the informant proceeded to the target area and arrived thereat at around 1:30 p.m. In accordance with the plan, PO2 Soriano and the informant approached Gandawali and Pagalad, while the rest of the team positioned themselves strategically. The informant introduced PO2 Soriano to appellants as a drug dependent who wanted to buy *shabu* worth P500.00. As Pagalad first asked for payment, PO2 Soriano gave the P500.00 bill to Gandawali. Gandawali, in turn, gave the money to Pagalad who took a small heat-sealed transparent plastic sachet from his pocket. Pagalad gave the plastic sachet containing white crystalline substance to Gandawali, who then handed the same to PO2 Soriano. Thereupon, PO2 Soriano signaled to his team members by taking off his cap. He then arrested appellants together with PO1 Sarangaya, and the latter recovered from Pagalad the P500.00 bill used as buy-bust money. Appellants were thereafter brought to the Baler Police Station 2.

PO2 Soriano marked the plastic sachet with the initials "ES-6-30-03" (the initials of PO1 Sarangaya) and together with the P500.00 bill, turned them over to the desk officer for proper disposition. Thereafter, P/Insp. De Vera prepared a Request for Laboratory Examination.^[7] On the same day, PO2 Soriano and the other team members submitted the plastic sachet to P/Insp. Bernardino M. Banac, Jr. (P/Insp. Banac) at the Central Police District Crime Laboratory Office where a qualitative examination of its contents was made. The specimen, as found by P/Insp. Banac, tested positive for methylamphetamine hydrochloride or shabu, a dangerous drug.^[8]

Version of the Defense

Appellants denied the accusation against them and claimed extortion. Their version of the incident is as follows:

At about 6:35 a.m. of June 30, 2003, while waiting for a bus at Litex, Fairview, Quezon City, Pagalad was arrested for unknown reason by PO1 Sarangaya. When questioned, he told the arresting officer that he has a companion Gandawali, who was likewise later arrested. Both were then brought to Police Station 2 at Baler, Quezon City where PO1 Sarangaya demanded from them P15,000.00 in exchange for their release. Unfortunately, they were unable to produce the money, hence, their incarceration.

Gandawali and Pagalad explained that despite their wrongful apprehension and the police's act of extortion, they did not file any case against them because they were afraid and were also unfamiliar with the procedures in filing a case.

Ruling of the Regional Trial Court

Finding sufficient evidence to sustain a finding of guilt, the RTC convicted appellants through a Decision^[9] dated November 18, 2008, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered finding accused DATS GANDAWALI y GAPAS and NOL PAGALAD y ANAS guilty

beyond reasonable doubt of x x x violation of Section 5, Article II of R.A. 9165. Accordingly, they are hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and each to pay a fine in the amount of Five Hundred Thousand (P500,000.00) Pesos.

x x x x

SO ORDERED.^[10]

Ruling of the Court of Appeals

On appeal, the CA found no reason to overturn appellants' conviction. Thus, the dispositive portion of its June 21, 2010 Decision^[11] reads:

WHEREFORE, premises considered, the judgment promulgated by Branch 82, Regional Trial Court of Quezon City, in Criminal Case No. Q-03-118597 is hereby AFFIRMED in toto.

SO ORDERED.^[12]

Issues

Appellants argue that all the elements of the offense charged were not proven and that the police officers failed to preserve the integrity and evidentiary value of the seized item.

The Court's Ruling

The appeal lacks merit.

All the elements of the offense charged were duly established by the prosecution.

The essential requirements for a successful prosecution of illegal sale of dangerous drugs, such as *shabu* are: "(1) the identity of the buyer and the seller, the object and consideration of the sale; and (2) the delivery of the thing sold and the payment therefor."^[13] Equally settled is the rule that "[t]he delivery of the illicit drug to the poseur-buyer and the receipt by the seller of the marked money successfully consummate the buy-bust transaction."^[14] Here, the Court is satisfied that the prosecution discharged its burden of establishing all the aforesaid elements. The prosecution positively identified appellants as the sellers of the seized substance which was later found to be positive for methamphetamine hydrochloride, a dangerous drug. Appellants sold the drug to PO2 Soriano, the police officer who acted as the poseur-buyer, and received from the latter the P500.00 buy-bust money as payment therefor.

Appellants' contention that the consideration of the sale was not established since the buy-bust money was not presented as evidence is unavailing. Suffice it to say that "[n]either law nor jurisprudence requires the presentation of any of the money used in a buy-bust operation x x x."^[15] "It is sufficient to show that the illicit transaction did take place, coupled with the presentation in court of the *corpus delicti* in evidence. These were done, and were proved by the prosecution's

evidence.”^[16]

The integrity and evidentiary value of the dangerous drug seized from appellants were duly proven by the prosecution to have been properly preserved; its identity, quantity and quality remained untarnished.

Appellants persistently argue that the prosecution failed to establish with moral certainty the identity of the substance seized and the preservation of its integrity. They assert that the apprehending officers failed to observe the procedures for the custody and disposition of the seized drug as laid down in Section 21(1), Article II of RA 9165, particularly the conduct of physical inventory and taking of photograph of the seized item.

The Court finds appellants’ contentions unconvincing.

Section 21(1),^[17] Article II of RA 9165 clearly outlines the post-seizure procedure for the custody and disposition of seized drugs. The law mandates that the officer taking initial custody of the drug shall, immediately after seizure and confiscation, conduct the physical inventory of the same and take a photograph thereof 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.

The explicit directive of the above statutory provision notwithstanding, the Implementing Rules and Regulations of the said law provide a saving clause whenever the procedures laid down in the law are not strictly complied with, to wit:

x x x 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.^[18]

Thus, gleaned from a plain reading of the implementing rules, the most important factor is the preservation of the integrity and the evidentiary value of the seized items as they will be used to determine the guilt or innocence of the accused.^[19] As long as the evidentiary value and integrity of the illegal drug are properly preserved, strict compliance of the requisites under Section 21 of RA 9165 may be disregarded.^[20]

In this case, while it was admitted by PO1 Sarangaya that no physical inventory of the seized item was made and no photograph thereof was taken as mandated by law, and also while the reason given for such failure appears to be unsatisfactory, i.e., PO1 Sarangaya was not familiar with Section 21, Article II of RA 9165 since the said law was just then newly implemented,^[21] it was nonetheless shown that the integrity and evidentiary value of the seized item had been preserved and kept intact. The crucial links in the chain of custody of the seized drug subject matter of the case, from the time Gandawali handed it to the poseur-buyer up to its presentation as evidence in court, were duly accounted for and shown to have not been broken.