

SECOND DIVISION

[G.R. No. 198694, February 13, 2013]

**RAMON MARTINEZ Y GOCO/ RAMON GOCO Y MARTINEZ @ MON,
PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

D E C I S I O N

PERLAS-BERNABE, J.:

Assailed in this Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court are the June 30, 2011 Decision^[2] and September 20, 2011 Resolution^[3] of the Court of Appeals (CA) in CA-G.R. CR No. 32544 which affirmed the April 30, 2009 Decision^[4] of the Regional Trial Court of Manila, Branch 2 (RTC) in Criminal Case No. 08-258669, convicting petitioner Ramon Martinez y Goco/ Ramon Gocoy Martinez (Ramon) of the crime of possession of dangerous drugs punished under Section 11(3), Article II of Republic Act No. 9165 (RA 9165), otherwise known as the "Comprehensive Dangerous Drugs Act of 2002."

The Factual Antecedents

At around 9:15 in the evening of December 29, 2007, PO2 Roberto Soque (PO2 Soque), PO2 Alejandro Cepe (PO2 Cepe) and PO3 Edilberto Zeta (PO3 Zeta), who were all assigned to the Station Anti-Illegal Drugs (SAID) Section of the Malate Police Station 9 (Police Station 9), conducted a routine foot patrol along Balingkit Street, Malate, Manila. In the process, they heard a man shouting "*Putang ina mo! Limang daan na ba ito?*" For purportedly violating Section 844 of the Revised Ordinance of the City of Manila (Manila City Ordinance) which punishes breaches of the peace, the man, later identified as Ramon, was apprehended and asked to empty his pockets. In the course thereof, the police officers were able to recover from him a small transparent plastic sachet containing white crystalline substance suspected to be *shabu*. PO2 Soque confiscated the sachet and brought Ramon to Police Station 9 where the former marked the item with the latter's initials, "RMG." There, Police Superintendent Ferdinand Ricafrente Quirante (PSupt Quirante) prepared a request for laboratory examination which, together with the specimen, was brought by PO2 Soque to the PNP Crime Laboratory for examination.

Forensic Chemist Police Senior Inspector Erickson Calabocal (PS Insp Calabocal) examined the specimen which contained 0.173 gram of white crystalline substance and found the same positive for methylamphetamine hydrochloride (or *shabu*).

Consequently, Ramon was charged with possession of dangerous drugs under Section 11(3), Article II of RA 9165 through an Information dated January 3, 2008 which states:

That **on or about December 29, 2007**, in the City of Manila, Philippines, the said accused, without being authorized by law to possess any dangerous drug, did then and there willfully, unlawfully and knowingly have in his possession and under his custody and control one **(1) heat sealed transparent plastic sachet containing ZERO POINT ONE SEVEN THREE (0.173) gram** of white crystalline substance containing methylamphetamine hydrochloride known as SHABU, a dangerous drug.^[5]

In defense, Ramon denied the charge and gave his version of the incident. He narrated that on December 29, 2007, at around 4:00 in the afternoon, while walking along Balingkit Street to borrow a welding machine from one Paez Garcia, a man in civilian clothing approached and asked him if he is Ramon Goco. Upon affirming his identity, he was immediately handcuffed by the man who eventually introduced himself as a police officer. Together, they boarded a tricycle (sidecar) where the said officer asked him if he was carrying illegal drugs. Despite his denial, he was still brought to a precinct to be detained. Thereafter, PO2 Soque propositioned Ramon and asked for P20,000.00 in exchange for his release. When Ramon's wife, Amalia Goco, was unable to produce the P20,000.00 which PO2 Soque had asked for, he (Ramon) was brought to the Manila City Hall for inquest proceedings.

The RTC Ruling

In its April 30, 2009 Decision, the RTC convicted Ramon of the crime of possession of dangerous drugs as charged, finding all its elements to have been established through the testimonies of the prosecution's disinterested witnesses. In this relation, it also upheld the legality of Ramon's warrantless arrest, observing that Ramon was disturbing the peace in violation of the Manila City Ordinance during the time of his apprehension. Consequently, Ramon was sentenced to suffer the penalty of imprisonment of twelve (12) years and one (1) day as minimum to seventeen (17) years and four (4) months as maximum and to pay a fine of P300,000.00. Aggrieved, Ramon elevated his conviction to the CA.

The CA Ruling

In its June 30, 2011 Decision, the CA denied Ramon's appeal and thereby affirmed his conviction. It upheld the factual findings of the RTC which found that the elements of the crime of possession of dangerous drugs were extant, to wit: (1) that the accused is in possession of a prohibited drug; (2) that such possession is not authorized by law; and (3) that the accused freely and consciously possessed the said drug.^[6]

Likewise, the CA sustained the validity of the body search made on Ramon as an incident of a lawful warrantless arrest for breach of the peace which he committed in the presence of the police officers, notwithstanding its (the case for breach of the peace) subsequent dismissal for failure to prosecute.

Moreover, the CA observed that every link in the chain of custody of the prohibited drug was sufficiently established from the time PO2 Soque took the same up to its actual presentation in court.

Finally, it did not give credence to Ramon's claim of extortion as his asseverations failed to overcome the presumption of regularity in the performance of the police officers' official duties.

The Issue

The sole issue raised in this petition is whether or not the CA erred in affirming the Decision of the RTC convicting Ramon of the crime of possession of dangerous drugs.

The Ruling of the Court

The petition is meritorious.

Enshrined in the fundamental law is a person's right against unwarranted intrusions by the government. Section 2, Article III of the 1987 Philippine Constitution (Constitution) states that:

Section 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

Accordingly, so as to ensure that the same sacrosanct right remains revered, effects secured by government authorities in contravention of the foregoing are rendered inadmissible in evidence for any purpose, in any proceeding. In this regard, Section 3(2), Article III of the Constitution provides that:

2. Any evidence obtained in violation of this or the preceding section [referring to Section 2] shall be inadmissible for any purpose in any proceeding.

Commonly known as the "exclusionary rule," the above-cited proscription is not, however, an absolute and rigid one.^[7] As found in jurisprudence, the traditional exceptions are customs searches,^[8] searches of moving vehicles,^[9] seizure of evidence in plain view,^[10] consented searches,^[11] "stop and frisk" measures^[12] and searches incidental to a lawful arrest.^[13] This last-mentioned exception is of particular significance to this case and thus, necessitates further disquisition.

A valid warrantless arrest which justifies a subsequent search is one that is carried out under the parameters of Section 5(a), Rule 113 of the Rules of Court^[14] which requires that the apprehending officer must have been spurred by probable cause to arrest a person caught *in flagrante delicto*. To be sure, the term probable cause has been understood to mean a reasonable ground of suspicion supported by

circumstances sufficiently strong in themselves to warrant a cautious man's belief that the person accused is guilty of the offense with which he is charged.^[15] Specifically with respect to arrests, it is such facts and circumstances which would lead a reasonably discreet and prudent man to believe that an offense has been committed by the person sought to be arrested.^[16] In this light, the determination of the existence or absence of probable cause necessitates a re-examination of the factual incidents.

Records show that PO2 Soque arrested Ramon for allegedly violating Section 844 of the Manila City Ordinance which provides as follows:

Sec. 844. – Breaches of the Peace. – No person shall make, and, countenance, or assist in making any riot, affray, disorder, disturbance, or breach of the peace; or assault, beat or use personal violence upon another without just cause in any public place; or utter any slanderous, threatening or abusive language or expression or exhibit or display any emblem, transparency, representation, motto, language, device, instrument, or thing; or do any act, in any public place, meeting or procession, tending to disturb the peace or excite a riot, or collect with other persons in a body or crowd for any unlawful purpose; or disturbance or disquiet any congregation engaged in any lawful assembly.

PENALTY: Imprisonment of not more than six (6) months and / or fine not more than Two Hundred pesos (PHP 200.00)

As may be readily gleaned, the foregoing ordinance penalizes the following acts: (1) making, countenancing, or assisting in making any riot, affray, disorder, disturbance, or breach of the peace; (2) assaulting, beating or using personal violence upon another without just cause in any public place; (3) uttering any slanderous, threatening or abusive language or expression or exhibiting or displaying any emblem, transparency, representation, motto, language, device, instrument, or thing; and (4) doing any act, in any public place, meeting or procession, tending to disturb the peace or excite a riot, or collect with other persons in a body or crowd for any unlawful purpose, or disturbance or disquiet any congregation engaged in any lawful assembly. Evidently, the gravamen of these offenses is the disruption of communal tranquillity. Thus, to justify a warrantless arrest based on the same, it must be established that the apprehension was effected after a reasonable assessment by the police officer that a public disturbance is being committed.

In this regard, PO2 Soque's testimony detailed the surrounding circumstances leading to Ramon's warrantless warrant, viz:

Direct Examination:

ASST. CITY PROS. YAP:

Q: Tell the Court, what happened when you were there on patrol?

A: While we were on routinary patrol we heard a man shouting on top of his voice telling "Putang ina mo! Limang daan na ba ito?" pointing to his right front pocket, sir.

Q: There was a shouting, where was this man shouting, where