

## SECOND DIVISION

[ G.R. No. 197207, March 13, 2013 ]

**BENEDICTO MARQUEZ Y RAYOS DEL SOL, PETITIONER, VS.  
PEOPLE OF THE PHILIPPINES, RESPONDENT.**

### DECISION

**BRION, J.:**

We resolve the petition for review on *certiorari*,<sup>[1]</sup> filed by petitioner Benedicto Marquez y Rayos Del Sol, assailing the February 4, 2011 decision<sup>[2]</sup> and the June 9, 2011 resolution<sup>[3]</sup> of the Court of Appeals (CA) in CA-G.R. CR No. 31878. The challenged CA decision affirmed the August 8, 2008 decision<sup>[4]</sup> of the Regional Trial Court (RTC), Branch 78, Quezon City, finding the petitioner guilty beyond reasonable doubt of violation of Section 11, Article II of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002. The assailed resolution, on the other hand, denied the petitioner's motion for reconsideration.

In its decision dated August 8, 2008, the RTC found the petitioner guilty of illegal possession of 1.49 grams of marijuana, penalized under Section 11,<sup>[5]</sup> Article II of R.A. No. 9165. The RTC held, among others, that the prosecution was able to prove that the petitioner knowingly possessed the dried marijuana fruiting tops without any legal authority to do so. It found the testimonies of the prosecution witnesses credible, more so since the petitioner did not impute any improper motive on their part to falsely testify against him. Accordingly, the RTC sentenced the petitioner to suffer the indeterminate penalty of twelve (12) years and one (1) day, as minimum, to fourteen (14) years and nine (9) months, as maximum. It also ordered him to pay a P300,000.00 fine.

On appeal, the CA affirmed the RTC decision. The CA held that the prosecution established all the elements of illegal possession of dangerous drugs. It added that non-compliance with the directives of Section 21, Article II of R.A. No. 9165 is not necessarily fatal to the prosecution's case if there exist justifiable grounds for the non-compliance, and as long as the integrity and evidentiary value of the seized evidence had been properly preserved. The CA further ruled that the chain of custody over the confiscated marijuana was shown not to have been broken.

The petitioner moved to reconsider this decision, but the CA denied his motion in its resolution of June 9, 2011.

In the present petition, the petitioner claims that the police failed to strictly comply with the required procedures in the handling and custody of the seized drugs. He also alleges that the chain of custody over the seized evidence had been broken.

### Our Ruling

## **The petitioner's conviction stands.**

For the successful prosecution of illegal possession of dangerous drugs, like marijuana, the following essential elements must be established: (a) the accused is in possession of an item or object that is identified to be a prohibited or dangerous drug; (b) such possession is not authorized by law; and (c) the accused freely and consciously possessed the drug.<sup>[6]</sup>

The prosecution successfully established the presence of all the required elements for violation of Section 11, Article II of R.A. No. 9165. The records show that on September 28, 2005, Mrs. Elenita Bautista Bagongon, the guidance counselor of Emilio Aguinaldo High School, received reports from some of the concerned parents that an employee of the school had been selling drugs to the students. Bagongon showed to the parents pictures of the janitors being paid by the Department of Education (*DepEd*), but they were unable to identify the culprit. When Bagongon showed the files of the school's other non-teaching personnel to the parents, one student identified the petitioner (through his photograph) as the person who had been selling drugs to the students.

At around 2:45 p.m. of the same day, Bagongon saw a group of students talking to the petitioner. When Bagongon was about to approach them, the students scampered away and left the petitioner behind. Bagongon approached the petitioner, and noticed that the latter was holding a piece of paper. Bagongon asked the petitioner what it was, but the latter replied that it was just thrash. Bagongon tried to get the piece of paper from the petitioner, but it fell to the ground when the petitioner attempted to put it in his pocket. Bagongon picked up the piece of paper, and saw two tea bag-like sachets containing dried leaves inside. Bagongon went to the principal's office, and showed the sachets to the principal and to the school's administrative officer, Maria Nancy del Rosario. Maria instructed the security guard, Virgilio Timonera, not to let the petitioner go out of the school's premises. Afterwards, the school officials called the police. When Senior Police Officer (*SPO*) 2 Joel Sioson and Police Officer (*PO*) 3 Edward Acosta arrived, they inspected the items seized from the petitioner. Thereafter, they went to the petitioner's quarters, introduced themselves as policemen, and brought the petitioner to the principal's office. After further questioning, the police brought the petitioner and the seized marijuana to the police station. Per Chemistry Report No. D-797-2005 of Engineer Leonard M. Jabonillo, Forensic Analyst of the Central Police District Crime Laboratory, the plastic sachets confiscated from the petitioner were examined and found to contain a total of 1.49 grams of marijuana. From these established facts, it is clear that the petitioner knowingly possessed marijuana – a prohibited drug – without legal authority to do so, in violation of Section 11, Article II of R.A. No. 9165.

We rely on the lower courts' assessment of the prosecution witnesses' credibility, absent any showing that certain facts of weight and substance, bearing on the elements of the crime, have been overlooked. We particularly note that the petitioner even testified that he did not hold any grudge against, or have any quarrel or altercation with Bagongon prior to his arrest. In addition, the police officers are presumed to have regularly performed their official duties in the absence of evidence to the contrary.