

FIRST DIVISION

[G.R. No. 194945, July 30, 2012]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALEX WATAMAMA Y ESIL, ACCUSED-APPELLANT.

DECISION

VILLARAMA, JR., J.:

On appeal is the March 5, 2010 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR HC No. 03295, affirming the Decision^[2] of the Regional Trial Court (RTC), Branch 103, of Quezon City, finding appellant Alex Watamama y Esil guilty of violating Section 5 of Republic Act (R.A.) No. 9165.^[3]

The prosecution's version of the facts is as follows:

At around 10 o'clock in the morning of September 25, 2005, an informant reported to SPO2 Dante Nagera in the Quezon City Anti-Drug Action Center, PNP Central Police District, Quezon City Hall Compound, that a certain "Alex" was selling drugs in Barangay Payatas, Quezon City. SPO2 Nagera relayed the information to his superior P/Supt. Gerardo Ratuita who then formed a team consisting of SPO2 Nagera, PO3 Leonardo Ramos, PO1 Teresita Reyes, PO1 Alexander Jimenez, and PO1 Peggy Lynne Vargas to conduct a buy-bust operation. PO1 Vargas was designated as the *poseur* buyer and was given two P100 bills which she marked with her initials "PV".^[4]

At 12 noon of the same day, the buy-bust team arrived at Area A, Payatas, Quezon City. The informant accompanied PO1 Vargas to a house at No. 14 Rosal Street. Upon seeing appellant, the informant introduced PO1 Vargas to appellant as a *shabu* user. PO1 Vargas asked to buy P200 worth of *shabu* from appellant. When asked for payment, PO1 Vargas promptly handed appellant the two marked bills. Appellant pocketed the money then took out a plastic sachet containing 0.18 grams of *shabu* and gave it to PO1 Vargas. PO1 Vargas inspected the contents of the plastic sachet, then gave the pre-arranged signal that the transaction was consummated. Immediately, the other members of the buy-bust team surfaced and arrested appellant. The two marked bills were recovered when SPO2 Nagera ordered appellant to empty his pockets. Appellant was thereafter brought to the police station.^[5]

At the police station, PO1 Vargas marked the confiscated *shabu* and turned it over to the station investigator Alex A. Jimenez. Jimenez prepared an inventory receipt which P/Supt. Ratuita signed. Thereafter, PO2 Ortiz brought the plastic sachet to the PNP Crime Laboratory for qualitative examination.^[6] Forensic chemist Leonard Jabonillo performed the examination and found that the contents of the heat-sealed transparent plastic sachet with marking PV-09-25-05, weighed 0.18 grams and tested positive for methylamphetamine hydrochloride or *shabu*.^[7]

On the other hand, appellant claimed that three men in civilian attire with handguns tucked at their waist suddenly barged in his house and arrested him. He was not shown any arrest warrant and nothing was found on him when the police frisked him at the police station. He added that PO1 Jimenez told him that if he wanted to be released he must reveal the identity of a big-time *shabu* supplier. He denied knowing any big-time *shabu* supplier and also denied selling *shabu*. He was then charged with illegal sale of *shabu*.^[8]

The RTC rendered a decision convicting appellant of illegal sale of 0.18 grams of *shabu* and sentenced him to suffer the penalty of life imprisonment and to pay a fine of P500,000.

On appeal to the CA, appellant argued that the arresting police officers failed to comply strictly with Section 21(1) of R.A. No. 9165, since there was no proof that they conducted an inventory of the confiscated items, or even marked the same in his presence, or the presence of his representative or counsel, or a representative from the media and the Department of Justice, or any elected official.

As aforesaid, the CA denied the appeal and affirmed the RTC Decision. The CA found that the prosecution was able to establish every link in the chain of custody of the *shabu* from the moment of seizure to receipt for examination and safekeeping in the PNP Crime Laboratory to safekeeping for presentation in court. The CA further held that the marking and inventory of the *shabu* done at the police station was not fatal to the prosecution's case. Section 21 (a) of the Implementing Rules and Regulations of Republic Act No. 9165 provides that in case of warrantless seizures, the marking, inventory, and photograph may be conducted at the nearest office of the apprehending team as long as the integrity and evidentiary value of the seized items are properly preserved. The CA noted that PO1 Vargas adequately explained why the marking was not made at the place of confiscation since there was a crowd of people forming when appellant was arrested. Also, a photograph was taken but the digital camera was lost. The CA also held that the defect in the pre-operation coordination sheet with PDEA would not affect the entrapment operation. The CA explained that Section 86 of R.A. No. 9165 is explicit only in saying that the PDEA shall be the "lead agency" in investigations and prosecutions of drug-related cases. It held that Section 86 is more of an administrative provision.

Unsatisfied with the CA decision, appellant filed a notice of appeal before this Court, essentially questioning the noncompliance by the police with the procedure for the custody and control of seized prohibited drugs under Section 21 of R.A. No. 9165. He claims that the chain of custody was not established by the prosecution and prays for his acquittal.

We agree with appellant.

In all prosecutions for the violation of the Comprehensive Dangerous Drugs Act of 2002, the existence of the prohibited drug has to be proved.^[9] The chain of custody rule requires that testimony be presented about every link in the chain, from the moment the item was seized up to the time it is offered in evidence. To this end, the prosecution must ensure that the substance presented in court is the same substance seized from the accused.