

THIRD DIVISION

[G.R. No. 176077, August 31, 2011]

**ABRAHAM MICLAT, JR. Y CERBO, PETITIONER, VS. PEOPLE OF
THE PHILIPPINES, RESPONDENT.**

D E C I S I O N

PERALTA, J.:

This is a petition for review on *certiorari* seeking to reverse and set aside the Decision^[1] dated October 13, 2006 of the Court of Appeals (CA) in CA-G.R. CR No. 28846, which in turn affirmed *in toto* the Decision of the Regional Trial Court (RTC), Branch 120, Caloocan City, in Criminal Case No. C-66765 convicting petitioner of Violation of Section 11, Article II of Republic Act (RA) No. 9165, or the *Comprehensive Dangerous Drugs Act of 2002*.

The factual and procedural antecedents are as follows:

In an Information^[2] dated November 11, 2002, petitioner Abraham C. Miclat, Jr. was charged for Violation of Section 11, Article II of RA No. 9165, the accusatory portion of which reads:

That on or about the 08th day of November 2002, in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, without the authority of law, did then and there willfully and feloniously have in his possession, custody and control [**Methamphetamine**] **Hydrochloride (SHABu)** weighing 0.24 gram, knowing the same to be a dangerous drug under the provisions of the above-cited law.

CONTRARY TO LAW. (Emphasis supplied.)^[3]

Upon arraignment, petitioner, with the assistance of counsel pleaded not guilty to the crime charged. Consequently, trial on the merits ensued.

To establish its case, the prosecution presented Police Inspector Jessie Abadilla Dela Rosa (P/Insp Dela Rosa), Forensic Chemical Officer of the Philippine National Police (PNP) Crime Laboratory, NPD-CLO, Caloocan City Police Station and Police Officer 3 Rodrigo Antonio (PO3 Antonio) of the Caloocan Police Station - Drug Enforcement Unit. The testimony of the police investigator, PO3 Fernando Moran (PO3 Moran), was dispensed with after petitioner's counsel admitted the facts offered for stipulation by the prosecution.

On the other hand, the defense presented the petitioner as its sole witness. The

testimonies of Abraham Miclat, Sr. and Ma. Concepcion Miclat, the father and sister, respectively, of the petitioner was dispensed with after the prosecution agreed that their testimonies were corroborative in nature.

Evidence for the Prosecution

First to testify for the prosecution was P/Insp. Jessie Abadilla Dela Rosa, Forensic Chemical Officer of the PNP Crime Laboratory, NPD-CLO, Caloocan City Police Station who, on the witness stand, affirmed his own findings in Physical Science Report No. D-1222-02 (Exhs. "D," "D-1," and "D-2") that per qualitative examination conducted on the specimen submitted, the white crystalline substance weighing 0.05 gram, 0.06 gram, 0.07 gram, and 0.06 gram then contained inside four (4) separate pieces of small heat-sealed transparent plastic sachets (Exhs. "D-4" to "D-7") gave positive result to the test for Methylamphetamine (sic) Hydrochloride, a dangerous drug.

Also, thru the testimony of PO3 Rodrigo Antonio of the Caloocan Police Station-Drug Enforcement Unit, Samson Road, Caloocan City, the prosecution further endeavored to establish the following:

At about 1:00 o'clock in the afternoon of November 8, 2002, P/Insp. Jose Valencia of the Caloocan City Police Station-SDEU called upon his subordinates after the (sic) receiving an INFOREP Memo from Camp Crame relative to the illicit and down-right drug-trading activities being undertaken along Palmera Spring II, Bagumbong, Caloocan City involving Abe Miclat, Wily alias "Bokbok" and one Mic or Jojo (Exhs. "E," "E-1," and (sic) "E-3," and "E-4"). Immediately, P/Insp. Valencia formed a surveillance team headed by SPO4 Ernesto Palting and is composed of five (5) more operatives from the Drug Enforcement Unit, namely: PO3 Pagsolingan, PO2 Modina, PO2 De Ocampo, and herein witness PO3 Antonio. After a short briefing at their station, the team boarded a rented passenger jeepney and proceeded to the target area to verify the said informant and/or memorandum.

When the group of SPO4 Palting arrived at Palmera Spring II, Caloocan City at around 3:50 o'clock that same afternoon, they were [at] once led by their informant to the house of one Alias "Abe." PO3 Antonio then positioned himself at the perimeter of the house, while the rest of the members of the group deployed themselves nearby. Thru a small opening in the curtain-covered window, PO3 Antonio peeped inside and there at a distance of 1½ meters, he saw "Abe" arranging several pieces of small plastic sachets which he believed to be containing shabu. Slowly, said operative inched his way in by gently pushing the door as well as the plywood covering the same. Upon gaining entrance, PO3 Antonio forthwith introduced himself as a police officer while "Abe," on the other hand, after being informed of such authority, voluntarily handed over to the former the four (4) pieces of small plastic sachets the latter was earlier sorting out. PO3 Antonio immediately placed the suspect under arrest and brought him and the four (4) pieces of plastic sachets containing white crystalline substance to their headquarters and

turned them over to PO3 Fernando Moran for proper disposition. The suspect was identified as Abraham Miclat y Cerbo a.k.a "ABE," 19 years old, single, jobless and a resident of Maginhawa Village, Palmera Spring II, Bagumbong, Caloocan City.^[4]

Evidence for the Defense

On the other hand, the [petitioner] has a different version of the incident completely opposed to the theory of the prosecution. On the witness stand, he alleged that at about 4:00 o'clock in the afternoon of November 8, 2002, while he, together with his sister and father, were at the upper level of their house watching the television soap "Cindy," they suddenly heard a commotion downstairs prompting the three (3) of them to go down. There already inside were several male individuals in civilian clothes who introduced themselves as raiding police operatives from the SDEU out to effect his (Abe) arrest for alleged drug pushing. [Petitioner] and his father tried to plead his case to these officers, but to no avail. Instead, one of the operatives even kicked [petitioner] at the back when he tried to resist the arrest. Immediately, [petitioner] was handcuffed and together with his father, they were boarded inside the police vehicle. That on their way to the Bagong Silang Police Station, PO3 Pagsolingan showed to [petitioner] a small piece of plastic sachet containing white crystalline substances allegedly recovered by the raiding police team from their house. At around 9:00 o'clock in the evening, [petitioner] was transferred to the Sangandaan Headquarters where he was finally detained. That upon [petitioner's] transfer and detention at the said headquarters, his father was ordered to go home.^[5]

On July 28, 2004, the RTC, after finding that the prosecution has established all the elements of the offense charged, rendered a Decision^[6] convicting petitioner of Violation of Section 11, Article II of RA No. 9165, the dispositive portion of which reads:

WHEREFORE, from the facts established, the Court finds the accused **ABRAHAM MICLAT Y CERBO "GUILTY"** beyond reasonable doubt of the crime of possession of a dangerous drugs (sic) defined and penalized under the provision of Section 11, sub-paragraph No. (3), Article II of Republic Act No. 9165 and hereby imposes upon him an indeterminate penalty of **six (6) years and one (1) day to twelve (12) years of imprisonment**, in view of the absence of aggravating circumstances. The Court likewise orders the accused to pay the amount of Three Hundred Thousand Pesos (Php300,000.00) as fine.

Let the 0.24 gram of shabu subject matter of this case be confiscated and forfeited in favor of the Government and to be turned over to the Philippine Drug Enforcement Agency for proper disposition.

SO ORDERED. (Emphasis supplied.)^[7]

Aggrieved, petitioner sought recourse before the CA, which appeal was later docketed as CA-G.R. CR No. 28846.

On October 13, 2006, the CA rendered a Decision^[8] affirming *in toto* the decision of the RTC, the dispositive portion of which reads:

WHEREFORE, the foregoing considered, the appeal is hereby **DISMISSED** and the assailed Decision **AFFIRMED** *in toto*. Costs against the accused-appellant.

SO ORDERED. (Emphasis supplied.)^[9]

In affirming the RTC, the CA ratiocinated that contrary to the contention of the petitioner, the evidence presented by the prosecution were all admissible against him. Moreover, it was established that he was informed of his constitutional rights at the time of his arrest. Hence, the CA opined that the prosecution has proven beyond reasonable doubt all of the elements necessary for the conviction of the petitioner for the offense of illegal possession of dangerous drugs.

Hence, the petition raising the following errors:

1. WHETHER OR NOT A POLICE SURVEILLANCE TEAM SENT TO DETERMINE THE VERACITY OF A CAMP CRAME MEMORANDUM OF SHABU TRADING ACTIVITY AT CALOOCAN CITY, WHICH CONVERTED THEIR MISSION FROM SURVEILLANCE TO A RAIDING TEAM, CAN VALIDLY MAKE AN ARREST AND SEARCH WITHOUT A VALID WARRANT HAVING BEEN FIRST OBTAINED FROM A COURT OF COMPETENT JURISDICTION.
2. WHETHER OR NOT PEEPING THROUGH A CURTAIN-COVERED WINDOW IS WITHIN THE MEANING OF "PLAIN VIEW DOCTRINE" FOR A WARRANTLESS SEIZURE TO BE LAWFUL.
3. WHETHER OR NOT THE BELIEF OF PO3 ANTONIO THAT THE FOUR (4) PIECES OF PLASTIC SACHETS ALLEGEDLY BEING ARRANGED BY PETITIONER CONTAINED SHABU JUSTIFIED HIS ENTRY INTO THE HOUSE AND ARREST PETITIONER WITHOUT ANY WARRANT.
4. WHETHER OR NOT ARRANGING FOUR (4) PIECES OF PLASTIC SACHETS CONSTITUTE AS A CRIME WITHIN THE MEANING OF SECTION 5 (3), RULE 113 OF THE RULES OF COURT.
5. WHETHER OR NOT PETITIONER WAS PROPERLY APPRAISED (SIC) OF HIS CONSTITUTIONAL RIGHTS TO BE INFORMED OF THE CAUSE AND NATURE OF HIS ARREST AND RIGHT TO BE ASSISTED BY COUNSEL DURING THE PERIOD OF HIS ARREST AND CONTINUED DETENTION.
6. WHETHER OR NOT THE CONVICTION BY THE LOWER COURT OF THE PETITIONER, AS AFFIRMED BY THE HONORABLE COURT OF APPEALS, ON THE BASIS OF AN ILLEGAL SEARCH AND ARREST, IS CORRECT.^[10]

Simply stated, petitioner is assailing the legality of his arrest and the subsequent seizure of the arresting officer of the suspected sachets of dangerous drugs from him. Petitioner insists that he was just watching television with his father and sister when police operatives suddenly barged into their home and arrested him for illegal possession of *shabu*.

Petitioner also posits that being seen in the act of arranging several plastic sachets inside their house by one of the arresting officers who was peeping through a window is not sufficient reason for the police authorities to enter his house without a valid search warrant and/or warrant of arrest. Arguing that the act of arranging several plastic sachets by and in itself is not a crime *per se*, petitioner maintains that the entry of the police surveillance team into his house was illegal, and no amount of incriminating evidence will take the place of a validly issued search warrant. Moreover, peeping through a curtain-covered window cannot be contemplated as within the meaning of the plain view doctrine, rendering the warrantless arrest unlawful.

Petitioner also contends that the chain of custody of the alleged illegal drugs was highly questionable, considering that the plastic sachets were not marked at the place of the arrest and no acknowledgment receipt was issued for the said evidence.

Finally, petitioner claims that the arresting officer did not inform him of his constitutional rights at any time during or after his arrest and even during his detention. Hence, for this infraction, the arresting officer should be punished accordingly.

The petition is bereft of merit.

At the outset, it is apparent that petitioner raised no objection to the irregularity of his arrest before his arraignment. Considering this and his active participation in the trial of the case, jurisprudence dictates that petitioner is deemed to have submitted to the jurisdiction of the trial court, thereby curing any defect in his arrest.^[11] An accused is estopped from assailing any irregularity of his arrest if he fails to raise this issue or to move for the quashal of the information against him on this ground before arraignment. Any objection involving a warrant of arrest or the procedure by which the court acquired jurisdiction over the person of the accused must be made before he enters his plea; otherwise, the objection is deemed waived.

^[12]

In the present case, at the time of petitioner's arraignment, there was no objection raised as to the irregularity of his arrest. Thereafter, he actively participated in the proceedings before the trial court. In effect, he is deemed to have waived any perceived defect in his arrest and effectively submitted himself to the jurisdiction of the court trying his case. At any rate, the illegal arrest of an accused is not sufficient cause for setting aside a valid judgment rendered upon a sufficient complaint after a trial free from error. It will not even negate the validity of the conviction of the

^[13]
accused.