

THIRD DIVISION

[G.R. No. 186498, March 26, 2010]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RONALDO DE
GUZMAN Y DANZIL, APPELLANT.**

D E C I S I O N

NACHURA, J.:

Before this Court is an appeal by Ronaldo de Guzman y Danzil, accused in Criminal Case No. V-1118, filed before the Regional Trial Court (RTC) of Villasis, Pangasinan. He was charged with Illegal Sale of Dangerous Drugs, punishable under Republic Act (R.A.) No. 9165.^[1] In a decision^[2] dated December 5, 2006, the trial court found De Guzman guilty beyond reasonable doubt of the crime charged. His conviction was affirmed by the Court of Appeals (CA) in a Decision^[3] dated June 26, 2008.

On June 10, 2003, a confidential informant reported De Guzman's drug pushing activities to Alcala, Pangasinan's Chief of Police, Sotero Soriano, Jr. Soriano immediately formed a team to conduct a buy-bust operation.^[4] After a short briefing, the team proceeded to De Guzman's house. Once there, the confidential informant introduced appellant to Senior Police Officer (SPO)1 Daniel Llanillo, who was designated as poseur-buyer. Llanillo tried to buy P200 worth of shabu. He handed two marked P100 bills to De Guzman, and the latter, in turn, gave him two heat-sealed transparent plastic sachets containing what was suspected as shabu. Thereafter, Llanillo gave the prearranged signal to the rest of the team. Appellant was arrested and frisked. The team recovered from De Guzman two packs of empty transparent sachets, three disposable lighters, and P3,380.00 in cash, which included the marked money paid by SPO1 Llanillo. The team then brought De Guzman to the police station in Alcala, Pangasinan.^[5]

At the police station, De Guzman and the items seized during the buy-bust operation were turned over to the police investigator, SPO3 Eduardo Yadao. SPO3 Yadao entered the incident in the police blotter. He then placed his initials on the packets of suspected shabu, which were later submitted to the Philippine National Police (PNP) Crime Laboratory in Urdaneta City.^[6] Confirmatory tests revealed that the substance in the packets that appellant handed to SPO1 Llanillo was indeed shabu.^[7]

At the trial, appellant denied the charges against him. He claimed that, on the morning of June 10, 2003, he was on the second floor of his house watching television when he was informed by his wife that police officers were looking for him. He claimed that SPO1 Llanillo informed him about a report that he (De Guzman) was repacking shabu, which he denied. Thereafter, the police officers frisked him and took the P3,000.00 from his pocket. The police officers also searched the cabinet, where his television was, and found a lighter. Then, he was

handcuffed and brought to the police station.^[8]

After trial, the RTC rendered a decision, finding De Guzman guilty beyond reasonable doubt of violating R.A. No. 9165. He was sentenced to life imprisonment and to pay a fine of P500,000.00.^[9]

De Guzman appealed his conviction to the CA, which affirmed the RTC decision *in toto*.^[10]

De Guzman now comes to this Court on a Petition for Review. He argues that the prosecution failed to show that the police officers complied with the mandatory procedures under R.A. No. 9165.^[11] In particular, he points to the fact that the seized items were not marked immediately after his arrest; that the police officers failed to make an inventory of the seized items in his presence or in the presence of his counsel and of a representative from the media and from the Department of Justice (DOJ); and that no photographs were taken of the seized items and of appellant.^[12] Appellant also claims that the unbroken chain of custody of the evidence was not established.^[13] Further, appellant contends that the failure of the police officers to enter the buy-bust operation in the police blotter before the said operation, the lack of coordination with the Philippine Drug Enforcement Agency (PDEA), and the failure to observe the requirements of R.A. No. 9165 have effectively overturned the presumption of regularity in the performance of the police officers' duties.^[14]

The findings of fact of the trial court are accorded great respect, even finality when affirmed by the CA, in the absence of any clear showing that some facts and circumstances of weight or substance that could have affected the result of the case have been overlooked, misunderstood, or misapplied.^[15]

Although the question of whether the degree of proof has been met is largely left for the trial courts to determine, an appeal throws the whole case open for review.^[16] Thus, the factual findings of the trial court may be reversed if, by the evidence or the lack of it, it appears that the trial court erred.^[17]

A review of the records of this case reveals that circumstances warrant a reversal of the trial court's decision.

The Constitution mandates that an accused in a criminal case shall be presumed innocent until the contrary is proven beyond reasonable doubt. The prosecution is laden with the burden to overcome such presumption of innocence by presenting the quantum of evidence required.

Consequently, courts are required to put the prosecution evidence through the crucible of a severe testing, and the constitutional right to presumption of innocence requires them to take a more than casual consideration of every circumstance or doubt favoring the innocence of the accused.^[18]

When the circumstances are capable of two or more inferences, as in this case, one of which is consistent with innocence and the other is compatible with guilt, the

presumption of innocence must prevail, and the court must acquit.^[19]

The duty to prove the guilt of an accused is reposed in the State. Law enforcers and public officers have the duty to preserve the chain of custody over the seized drugs. This guarantee of the integrity of the evidence to be used against an accused goes to the very heart of his fundamental rights.^[20]

In a prosecution for illegal sale of dangerous drugs, the following elements must be proven: (1) that the transaction or sale took place; (2) that the *corpus delicti* or the illicit drug was presented as evidence; and (3) that the buyer and seller were identified.^[21]

What is material is the proof that the transaction or sale actually took place, coupled with the presentation in court of the prohibited or regulated drug. The delivery of the contraband to the poseur-buyer and the receipt of the marked money consummate the buy-bust transaction between the entrapping officers and the accused.^[22] The presentation in court of the *corpus delicti* -- the body or the substance of the crime - establishes the fact that a crime has actually been committed.^[23]

Contrary to De Guzman's contention, the trial court correctly found that the buy-bust transaction took place. The buyer (SPO1 Llanillo) and seller (De Guzman) were both identified and the circumstances of how the purported sale of the illegal drugs took place were clearly demonstrated. Thus, the prosecution successfully established the first and third elements of the crime. However, there is a problem in the prosecution's effort to establish the integrity of the *corpus delicti*.

In a prosecution for violation of the Dangerous Drugs Act, the existence of the dangerous drug is a condition *sine qua non* for conviction. The dangerous drug is the very *corpus delicti* of the crime.^[24]

The identity of the prohibited drug must be established with moral certainty. Apart from showing that the elements of possession or sale are present, the fact that the substance illegally possessed and sold in the first place is the same substance offered in court as exhibit must likewise be established with the same degree of certitude as that needed to sustain a guilty verdict.^[25] The *corpus delicti* should be identified with unwavering exactitude.^[26]

The chain of custody requirement performs this function in that it ensures that unnecessary doubts concerning the identity of the evidence are removed.^[27] Section 21 of R.A. No. 9165 states:

Section 21. Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. - The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the

following manner:

(1) The apprehending team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same 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.

On the other hand, the Implementing Rules and Regulations (IRR) of R.A. No. 9165 provides:

SECTION 21. Custody and Disposition of Confiscated, Seized and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. - The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same 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: Provided, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; 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.

The Court finds that the apprehending officers failed to comply with the guidelines set under R.A. No. 9165 and its IRR.

SPO1 Llanillo himself admitted that the marking of the seized items was done in the

police station and not immediately after the buy-bust operation. He testified:

Q: What did you do after you said you bought P200.00 worth of shabu?

A: In return, he handed to me two (2) heat sealed transparent plastic sachet containing a suspected methamphetamine hydrochloride (shabu), sir.

Q: After that what did you do next?

A: The team made a frisking on [Ronaldo] de Guzman to see if there are other things he is keeping in his body, sir.

Q: And what was the result of your frisking [Ronaldo] de Guzman?

A: We recovered from him 2 packs of empty transparent plastic sachets, 3 disposable lighters, sir.

Q: Aside from those items, what else did you recover from [Ronaldo] de Guzman?

A: Money, sir, amounting to P3,380.00 including the marked money.

Q: What did you do with those things that you were able to confiscate from [Ronaldo] de Guzman?

A: We brought it to the police station for investigation and the specimen were (sic) brought to the crime laboratory for examination, sir.^[28]

It is true that the IRR of R.A. No. 9165 provides that the physical inventory of the seized items may be done at the nearest police station, if the same cannot be done at the place where the items were seized. However, it must be emphasized that the IRR also provides 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."^[29]

The failure to follow the procedure mandated under R.A. No. 9165 and its IRR **must be adequately explained**. The justifiable ground for non-compliance must be proven as a fact. The court cannot presume what these grounds are or that they even exist.

Accordingly, non-compliance with the procedure shall not render void and invalid the seizure and custody of the drugs only when: (1) such non-compliance is attended by justifiable grounds; and (2) the integrity and the evidentiary value of the seized items are properly preserved by the apprehending team. There must be proof that these two (2) requirements were met before such non-compliance may be said to fall within the scope of the proviso.^[30]

In this case, it was admitted that it was SPO3 Yadao, the assigned investigator, who marked the seized items, and only upon seeing the items for the first time at the police station. Moreover, there was no physical inventory made or photographs of