638 Phil. 201

SECOND DIVISION

[G.R. No. 183101, July 06, 2010]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. NOEL CATENTAY, APPELLANT.

D E C I S I O N

ABAD, J.:

This case is about the duty of the prosecution in a prohibited drugs case to prove the integrity of the *corpus delicti* by establishing the chain of custody of the allegedly illegal substance that the police officers seized from the accused.

The Facts and the Case

On April 19, 2004 the Assistant City Prosecutor of Quezon City filed two separate informations against the accused Noel Doroja Catentay *alias* Boy (Catentay) before the Regional Trial Court (RTC) of that city in Criminal Cases Q-04-126517 and Q-04-126518 for violations of Sections 5 and 11, Article II of Republic Act (R.A.) 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002. The cases were tried together.[1]

At the pre-trial, the parties stipulated: (1) that PO1 Reyno Riparip (Riparip), the Investigator-On-Case, investigated the case before referring it to the inquest prosecutor; (2) that Riparip prepared the referral letter for inquest, the joint affidavit of the arresting officers, and the request for laboratory examination though he had no personal knowledge as to the circumstances of the arrest of Catentay or the source of the specimens; and (3) that Leonard M. Jabonillo, a forensic chemical officer, received the request for laboratory examination of the specimen involved, examined the same, and found it positive for methylamphetamine hydrochloride (*shabu*).[2]

PO3 Gerardo Quimson, a police officer, testified that on April 14, 2004 his anti-illegal drugs unit received a report of drug trafficking by Catentay at a billiard hall.[3] This prompted the police to conduct a buy-bust operation at the place.

PO3 Quimson was to serve as the poseur-buyer while PO2 Valdez was to serve as pick-up officer. During the briefing, PO3 Quimson marked a 100-peso bill with his initials "GQ" to serve as buy-bust money. After the briefing, the team proceeded to the subject billiard hall with their informant. The latter introduced PO3 Quimson to Catentay as someone who wanted to buy P100.00 worth of *shabu*. After PO3 Quimson gave the money, Catentay took out two heat-sealed, transparent plastic sachets containing a white crystalline substance from his pocket and handed one sachet to the police officer.[4]

Upon receiving the sachet, PO3 Quimson scratched his head to signal the consummation of the transaction. PO2 Valdez then approached and with Quimson introduced themselves to Catentay as police officers. They apprised him of his constitutional rights, arrested him, and seized from him the other heat-sealed sachet and the buy-bust money. PO3 Quimson then wrote the letters "GQ" on the sachet he bought from Catentay and "GQ-1" on the other sachet they seized from him.[5]

The officers turned over Catentay and the items they got from him to the desk officer at the police station. The investigator, whom PO3 Quimson did not identify, then submitted the sachets of white crystalline substances to the Philippine National Police Crime Laboratory for examination. These were found positive for methylamphetamine hydrochloride or *shabu*.[6]

In court, PO3 Quimson identified the sachets of *shabu* he got from Catentay. Instead of presenting PO2 Valdez, the parties stipulated (1) that he was a police officer; (2) that he was involved as arresting officer in the buy-bust operation; (3) that he recovered the buy-bust money from Catentay; and (4) that he can identify him and the buy-bust money used.[7]

As expected, Catentay presented the court with a different version. He claims that on April 14, 2004 he was plying his route as a tricycle driver when PO3 Quimson, PO1 Riparip, and PO2 Valdez flagged him down. They invited him to come to the police station to answer questions from their commanding officer. When he asked them what they were arresting him for, they simply replied that they wanted to ask from him the whereabouts of his neighbor, Roger Geronimo.

When Catentay arrived at the station, they brought him to a room and there blindfolded, beat, and questioned him. After removing his blindfold, PO1 Riparip showed him two plastic sachets and instructed his companions, "*Tuluyan n'yo na yan, bahala na kayo d'yan*." Catentay pleaded with the officers but they told him to just explain the matter to the prosecutor. Catentay maintains that the only reason the police charged him was his refusal to cooperate with them in their investigation of his neighbor. Aside from denying the charges, he questioned the legality of his arrest.[8]

On October 26, 2005 the trial court rendered a decision, dismissing Criminal Case Q-04-126517 since the crime of possession charged in it was absorbed by the crime of selling dangerous drugs charged in the other case as the Court enunciated in *People v. Lacerna*.[9] But, finding PO3 Quimson's testimony "credible and not doubtful x x x clear and forthright,"[10] the trial court found Catentay guilty beyond reasonable doubt in Criminal Case Q-04-126518 of violation of Section 5, Article II of R.A. 9165 or the illegal selling of 0.03 grams of methylamphetamine hydrohloride, a dangerous drug, and sentenced him to the penalties of life imprisonment and fine of P500,000.00.[11]

Upon review, the Court of Appeals (CA) rendered a decision dated January 15, 2008, affirming in full the decision of the trial court.[12] Catentay appealed to this Court, repeating the same arguments he presented before the CA.[13]

The Issue Presented

The issue in this case is whether or not the CA erred in finding sufficient evidence that Catentay sold prohibited drugs to a police officer in a buy-bust operation in a billiard hall.

The Ruling of the Court

The burden of the prosecution in a case of illegal sale of dangerous drugs is to prove (1) the identities of the buyer and the seller; (2) the sale of dangerous drugs; and (3) the existence of the *corpus delicti* or the illicit drug as evidence.[14]

Early this year, this Court expounded on the requirement of proof of the existence of the prohibited drugs. The prosecution has to establish the integrity of the seized article in that it had been preserved from the time the same was seized from the accused to the time it was presented in evidence at the trial.[15] Here, the prosecution established through PO1 Quimson's testimony that he got the two sachets of white crystalline substances from Catentay and marked them with his initials. Since he testified that the sachets were heat-sealed and that he placed his initials on them, that would have been sufficient to ensure the integrity of the substances until they shall have reached the hands of the forensic chemist.

The integrity of the seized articles would remain even if PO1 Quimson coursed their transmittal to the crime laboratory through the investigator-on-case since they had been sealed and marked. It does not matter that another person, probably a police courier would eventually deliver the sealed substances by hand to the crime laboratory. But, unfortunately, because the prosecution did not present the forensic chemist who opened the sachets and examined the substances in them, the latter was unable to attest to the fact that the substances presented in court were the same substances he found positive for *shabu*.

In his dissenting opinion, Justice Martin S. Villarama, Jr., points out that the stipulations among the parties at the pre-trial dispensed with the need to present the forensic chemist. The pertinent stipulations read:

> **x x x x**
>
> **(2) That the said forensic chemical officer [Engr. Leonard M. Jabonillo] was the one who personally received the letter of request for laboratory examination together with the specimens subject matter of the case involving two (2) heat sealed transparent plastic sachets, each containing white crystalline substance with the following markings and recorded net weights: A(GQ)= 0.03 gram and B(GQ1)= 0.03 gram;**
>
> **(3) That the purpose of the examination was to determine the presence of the dangerous drugs. Thereafter, the said forensic chemical officer, Engr. Leonard M. Jabonillo conducted a qualitative examination on the specimens that gave positive results to the test for dangerous drugs;**
>
> **(4) That the result was reduced into writing and signed by the**

said forensic chemical officer, duly noted by the Chief of the Crime Laboratory;

(5) That the witness will identify the document as well as the specimens he examined; and

(6) That the forensic chemical officer has no personal knowledge as to the source of the specimens, subject of the case.[16]

The chemistry report, said the dissenting opinion, carried with it the presumption of truth that the seized specimen contained prohibited drugs. And since the parties stipulated that the forensic chemist personally received the specimen, undoubtedly, the two plastic sachets containing shabu that were seized from Catentay were the same sachets submitted for examination and found positive for *shabu*. PO3 Quimson, the police officer, identified the plastic sachets in court.

But, while Catentay stipulated that the forensic chemist examined the contents of the same plastic sachets that he personally received from the police, Catentay made no stipulation that the substance contained in the plastic sachets that were actually presented in court is the same substance that the forensic chemist examined and found positive for *shabu*. The Court is guided by its ruling in *People v. Habana*[17] which describes how the integrity of the substance seized from the accused might be preserved. Thus:

Usually, the police officer who seizes the suspected substance turns it over to a supervising officer, who would then send it by courier to the police crime laboratory for testing. Since it is unavoidable that possession of the substance changes hand a number of times, it is imperative for the officer who seized the substance from the suspect to place his marking on its plastic container and seal the same, preferably with adhesive tape that cannot be removed without leaving a tear on the plastic container. At the trial, the officer can then identify the seized substance and the procedure he observed to preserve its integrity until it reaches the crime laboratory.

If the substance is not in a plastic container, the officer should put it in one and seal the same. In this way the substance would assuredly reach the laboratory in the same condition it was seized from the accused. Further, after the laboratory technician tests and verifies the nature of the substance in the container, he should put his own mark on the plastic container and seal it again with a new seal since the police officer's seal has been broken. At the trial, the technician can then describe the sealed condition of the plastic container when it was handed to him and testify on the procedure he took afterwards to preserve its integrity.

If the sealing of the seized substance has not been made, the prosecution would have to present every police officer, messenger, laboratory technician, and storage personnel, the

> **entire chain of custody, no matter how briefly one's possession has been. Each of them has to testify that the substance, although unsealed, has not been tampered with or substituted while in his care.**[18]

In this case, although the plastic sachets that the forensic chemist received were heat-sealed and authenticated by the police officer with his personal markings, the forensic chemist broke the seal, opened the plastic sachet, and took out some of the substances for chemical analysis. No evidence had been adduced to show that the forensic chemist properly closed and resealed the plastic sachets with adhesive and placed his own markings on the resealed plastic to preserve the integrity of their contents until they were brought to court. Nor was any stipulation made to this effect. The plastic sachets apparently showed up at the pre-trial, not bearing the forensic chemist's seal, and was brought from the crime laboratory by someone who did not care to testify how he came to be in possession of the same. The evidence did not establish the unbroken chain of custody.

Given the prosecution's failure to establish the integrity of the allegedly illegal substances that the police took from Catentay and presented in court, the latter's acquittal is inevitable.

WHEREFORE, the Court **REVERSES and SETS ASIDE** the January 15, 2008 decision of the Court of Appeals in CA-G.R. CR-HC 01712 and **ACQUITS** the accused-appellant Noel Catentay *y* Doroja alias "Boy" for failure of the prosecution to prove his guilt beyond reasonable doubt. He is ordered immediately **RELEASED** from detention unless he is confined for another lawful cause.

SO ORDERED.

Peralta, Abad, and *Mendoza, JJ.*, concur.
Carpio, J., join the dissenting opinion of J. Villarama.
*Villarama, Jr.,** *J.*, pls. see dissenting opinion.

---

* Designated as additional member in lieu of Associate Justice Antonio Eduardo B. Nachura, per raffle dated June 7, 2010.

[1] Records, pp. 1-5.

[2] Id. at 28-31.

[3] TSN, March 17, 2005, pp. 8-10.

[4] Id. at 18-23.

[5] Id. at 24-27.

[6] Id. at 27-29.