

## THIRD DIVISION

[ G.R. No. 179478, July 28, 2008 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
JINGGOY MATEO Y RODRIGUEZ, DEFENDANT-APPELLANT.**

### D E C I S I O N

**CHICO-NAZARIO, J.:**

The instant Appeal stemmed from an Information,<sup>[1]</sup> dated 15 January 2003, indicting defendant-appellant Jinggoy Mateo y Rodriguez for violation of Article II, Section 5<sup>[2]</sup> of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, and filed with the Regional Trial Court (RTC) of Quezon City, Branch 103. The inculpatory portion of the Information, docketed as Criminal Case No. Q-03-114484, reads:

That on or about the 14<sup>th</sup> day of January, 2003 in Quezon City, Philippines, the said accused, not being authorized by law to sell, dispense, deliver, transport or distribute any dangerous drug, did, then and there, [willfully], and unlawfully sell, dispense, deliver, transport, distribute or act as broker in the said transaction, one (1) transparent plastic sachet of white crystalline substance containing Zero Point Twenty (0.20) gram of Methylamphetamine Hydrochloride, a dangerous drug.<sup>[3]</sup>

Upon arraignment on 25 August 2002, defendant-appellant pleaded not guilty.<sup>[4]</sup> Trial on the merits ensued.

Evidence for the prosecution adduced before the RTC consisted of the sole testimony of witness Police Officer 2 Joseph Ortiz (PO2 Ortiz) who established that in the early morning of 14 June 2003, while he was on "stand-by" duty at the Central Police District in Camp Karingal, Quezon City, his team leader, Senior Police Officer 2 (SPO2) Dante Nagera, upon the tip of an informant ordered him and the rest of his teammates, namely, PO3 Leonardo Ramos, PO1 Peggy Lynne Vargas, and PO1 Estelito Mortega to conduct a buy-bust operation against defendant-appellant Jinggoy Mateo, who was allegedly selling illegal drugs at Sitio Pajo, Baesa, Quezon City.<sup>[5]</sup> Per instructions, PO2 Ortiz was tasked to pose as the poseur-buyer. Following the briefing, his team leader handed him a P200.00 bill which PO2 Ortiz marked with his initials "JO."

On the same day, at around 3:30 a.m., the group, together with their informant, boarded an owner-type jeep and proceeded to the designated place. PO2 Ortiz and the informant managed to locate defendant-appellant in a squatter's area in Sitio Pajo. They found him standing outside his house. The informant later introduced PO2 Ortiz to defendant-appellant. PO2 Ortiz told defendant-appellant that he was going to buy *shabu* or methamphetamine hydrochloride worth P200.00. Defendant-

appellant replied, "*Sige, bibili ka.*"<sup>[6]</sup> Defendant-appellant then handed a small plastic sachet to PO2 Ortiz, and in exchange, the latter gave him the marked P200.00 bill. Subsequently, PO2 Ortiz lit a cigarette, the pre-arranged signal to the rest of the buy-bust team that he had bought *shabu*. He introduced himself to defendant-appellant as a policeman, and together with the other members of the operation, arrested the defendant-appellant who was caught by surprise.<sup>[7]</sup> He informed appellant of his right to remain silent, and of the fact that he would be charged with violation of Republic Act No. 9165.<sup>[8]</sup> They brought him to Camp Karingal, Quezon City.<sup>[9]</sup> Later, PO2 Ortiz sealed the transparent sachet containing the alleged *shabu*, marked the sachet with his initials, "JO,"<sup>[10]</sup> and turned it over to the Desk Officer and then to the investigator.

In his testimony, defendant-appellant declared that he is married with two children, and that he earns P200.00 a day as an assistant to his aunt who operates a video game outlet. For his defense, he posited a contrary account of what transpired. Per his narration, on 14 January 2003 at around 4:00 in the morning, he was suffering from a painful stomach.<sup>[11]</sup> He went to the comfort room which was located 15 meters<sup>[12]</sup> outside his house. Upon coming out of the comfort room, he saw that there was a commotion. He saw several people chasing one another. He also saw his neighbor Marichu Ramos, who told him, "*Jinggoy, mukhang may nagkakagulo diyen.*" He remained outside, near the comfort room. Later, a man in a police uniform and a woman in plain clothes<sup>[13]</sup> approached him, handcuffed him, and put him in a van.<sup>[14]</sup> He was frisked, but after searching him, they did not find anything in his possession.<sup>[15]</sup> He was then brought to Camp Karingal and detained therein. He was, however, never informed of the charges filed against him.<sup>[16]</sup> Defendant-appellant added that it was only two weeks later from the time of his arrest when he was brought for his inquest. On cross-examination, he denied seeing a transparent plastic sachet containing *shabu* and buy-bust marked money being turned over by the police officers to the Desk Officer in Camp Karingal.<sup>[17]</sup> He also admitted that a day after he was arrested, he was brought to the Prosecutor's Office for an inquest before the fiscal, where he was apprised of the charges against him.<sup>[18]</sup> Finally, he consistently declared that he did not resist arrest,<sup>[19]</sup> nor did he protest when he was brought to the police station despite knowing that he did not commit anything illegal.<sup>[20]</sup>

The defense also offered the testimony of Marichu Ramos, defendant-appellant's neighbor, to prove that on the day of the arrest, there was no buy-bust operation that happened within the vicinity of Sitio Pajo, Quezon City. Per her statement, on 14 January 2003 at about 4:00 in the morning, she went outside her house to wait for her *Tita* Carmen to come home from the market. She saw defendant-appellant coming out of the comfort room. They engaged in a conversation when she saw two male persons approach them.<sup>[21]</sup> They handcuffed defendant-appellant.<sup>[22]</sup> Then, she saw them take defendant-appellant inside a van. She then informed defendant-appellant's wife that her husband had been arrested.<sup>[23]</sup>

A forensic examination was conducted on the specimen, subject matter of the case, which showed that the article recovered from defendant-appellant during the buy-

bust operation was *shabu* or methylamphetamine hydrochloride.<sup>[24]</sup> On 9 March 2004, the parties stipulated the following pertinent facts, to wit:

2. **That Chemistry Report No. D-069-03 was issued by the Forensic Chemist Eng. (sic) Leonard Jabonillo who made the examination on the specimen, subject matter of this case with the finding that said specimen is positive for methylamphetamine hydrochloride;**
3. That Certification was issued and was subscribed and sworn to by the Administering Officer;
4. That attached to the report is the transparent plastic sachet with the marking D-069-03 and the marking placed by the Forensic Chemist;
5. That the chemist has no personal knowledge of the fact of the arrest of [defendant-appellant]. He only conducted the examination on the specimen, subject matter of this case.<sup>[25]</sup>

With the above-quoted stipulation, the testimony of Forensic Chemist Engr. Leonard M. Jabonillo was dispensed with.

After the defense rested its case, the RTC rendered its Decision<sup>[26]</sup> on 15 July 2005. The decretal portion of the judgment of conviction disposes as follows:

ACCORDINGLY, in view of the foregoing, judgment is hereby rendered finding the accused Jinggoy Mateo y Rodriguez GUILTY beyond reasonable doubt of violating Section 5 of R.A. 9165 as charged and he is hereby sentenced to suffer a jail term of Life Imprisonment and to pay a fine of Five Hundred Thousand Pesos (P500,000.00).

The drug involved in this case is hereby ordered transmitted to the PDEA, thru DDB for proper disposition.<sup>[27]</sup>

The RTC gave scant merit to defendant-appellant's alibi and concluded that his arrest was for a legal cause. It theorized that if credence be given to defendant-appellant's version, his neighbor and witness, Marichu Ramos, who was also in a similar situation, should also have been indiscriminately arrested. The RTC found no reason to attribute ill motive on the part of the arresting police officers in light of the fact that the crime scene was in an area that was well-lighted, with people passing by the area, and with a close witness beside them, such as defendant-appellant's neighbor. The RTC further underscored that defendant-appellant's arrest was previously reported to the Philippine Drug Enforcement Agency (PDEA). It was also established that defendant was brought to the inquest fiscal a day after his detention, and no allegation whatsoever was shown that the police officers arrested defendant-appellant for the purpose of extortion.

Dissatisfied, defendant-appellant appealed to the Court of Appeals, which affirmed the ruling of the RTC. Hence, in a Decision dated 15 February 2007, the appellate court decreed:

WHEREFORE, finding no error in the judgment appealed from, the Court hereby AFFIRMS the same.<sup>[28]</sup>

The Court of Appeals, finding that no decisive facts or circumstances were overlooked by the court *a quo*, accorded great respect to the factual findings of the RTC. In the same manner, the Court of Appeals struck down defendant-appellant's defense of denial and alibi, contending that the same cannot prevail over the positive identification by the poseur-buyer PO2 Ortiz. Moreover, the appellate court found no convincing evidence that the police officers were wrongfully motivated, nor were they shown not to have been properly performing their duties when they conducted the buy-bust operation. Given such findings, the Court of Appeals relied on the presumption of regularity in the performance of official duty, and affirmed defendant-appellant's conviction.

From the above Decision, defendant-appellant filed an Appeal with this Court. The records of this case were thereby forwarded by the Court of Appeals pursuant to its Resolution dated 7 June 2007, giving due course to defendant-appellant's Notice of Appeal.<sup>[29]</sup>

In the instant Appeal, defendant-appellant assigns the following errors, to wit:

I

THE COURT OF APPEALS GRAVELY ERRED IN PRONOUNCING THE GUILT OF THE [DEFENDANT]-APPELLANT NOTWITHSTANDING THE ARRESTING OFFICERS' PATENT NON-COMPLIANCE WITH THE REQUIREMENTS FOR THE PROPER CUSTODY OF SEIZED DANGEROUS DRUGS UNDER R.A. NO. 9165.

II

THE COURT OF APPEALS GRAVELY ERRED IN PRONOUNCING THE GUILT OF THE [DEFENDANT]-APPELLANT NOTWITHSTANDING THE FAILURE OF THE ARRESTING OFFICERS TO PRESERVE THE INTEGRITY AND EVIDENTIARY VALUE OF THE SEIZED DANGEROUS DRUG.<sup>[30]</sup>

Defendant-appellant argues mainly that the arresting officers failed to comply with the requirements for the proper custody of the seized dangerous drugs under Section 21<sup>[31]</sup> of Republic Act No. 9165. According to defendant-appellant, the arresting team should have conducted a physical inventory of the items seized and taken a photograph thereof in the presence of the accused, a representative each from the media and the Department of Justice, and any elected public official who shall further be required to sign copies of the said inventory. It is further claimed that the arresting officers failed to preserve the integrity and evidentiary value of the seized dangerous drug in accordance with the law by leaving the plastic sachet unprotected and susceptible to tampering during the course of its transfer from the scene of the crime to the police headquarters.

The Appeal is without merit.

Initially, it is best to emphasize that defendant-appellant's defense of alleged non-compliance by the arresting officers with Section 21 of Republic Act No. 9165 was

raised belatedly and for the first time on appeal. This is not the first time that this Court has encountered an issue like the one in the instant case. Recently, in *People v. Norberto del Monte y Gapay @ Obet*,<sup>[32]</sup> this Court ruled that non-compliance with Section 21 would not render an accused's arrest illegal or the items seized/confiscated from him inadmissible.<sup>[33]</sup> This Court succinctly pronounced:

We would like to add that non-compliance with Section 21 of said law, particularly the making of the inventory and the photographing of the drugs confiscated and/or seized, will not render the drugs inadmissible in evidence. Under Section 3 of Rule 128 of the Rules of Court, evidence is admissible when it is relevant to the issue and is *not excluded by the law or these rules*. For evidence to be inadmissible, there should be a law or rule which forbids its reception. If there is no such law or rule, the evidence must be admitted subject only to the evidentiary weight that will [be] accorded it by the courts. One example is that provided in Section 31 of Rule 132 of the Rules of Court wherein a party producing a document as genuine which has been altered and appears to be altered after its execution, in a part material to the question in dispute, must account for the alteration. His failure do so shall make the document inadmissible in evidence. This is clearly provided for in the rules.<sup>[34]</sup>

The rule was similarly laid down in *People v. Pringas*,<sup>[35]</sup> in which this Court had the occasion to rule on the same issue, thus:

As regards Section 21 of Republic Act No. 9165, appellant insists there was a violation of said section when pictures, showing him together with the confiscated *shabu*, were not immediately taken after his arrest. He added that the Joint Affidavit of Arrest of the apprehending team did not indicate if the members thereof physically made an inventory of the illegal drugs in the presence of the appellant or his/her representative or counsel, a representative from the media and the Department of Justice, and any elected public official who shall be required to sign the copies of the inventory and given a copy thereof. In short, appellant insists that non-compliance with Section 21 regarding the custody and disposition of the confiscated/seized dangerous drugs and paraphernalia, *i.e.*, the taking of pictures and the making of an inventory, will make these items inadmissible in evidence.

We do not agree. Section 21 reads:

SEC. 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