

SPECIAL SIXTEENTH DIVISION

[CA-G.R. CR-H.C. NO. 06412, March 04, 2015]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. TEOH
CHEE KEONG, ACCUSED-APPELLANT.**

DECISION

BUESER, J.:

This is an appeal from the Decision^[1] dated September 17, 2013 of the Regional Trial Court ("RTC"), Branch 231, Pasay City, the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered finding the accused TEOH CHEE KEONG guilty beyond reasonable doubt of the charge of Violation of Section 5, Article II, Republic Act 9165 in Criminal Case No. R-PSY-10-02461-CR and is hereby sentenced to suffer the penalty of life imprisonment and is hereby ordered to pay a fine of one million pesos (Php1,000,000.00), with subsidiary imprisonment in case of insolvency.

The Officer-in-Charge is hereby directed to transmit the sample of the Methamphetamine Hydrochloride taken from the seven kilograms confiscated from the accused to the PDEA for its proper disposition.

SO ORDERED."

THE ANTECEDENT FACTS

As culled from the records of this case, the facts are as follows:

Appellant is a Malaysian national, who was charged with Violation of Section 5, Article II, Republic Act 9165 ("R.A. No. 9165") for allegedly transporting seven (7) kilograms of Methamphetamine Hydrochloride (shabu), a dangerous drug.

During trial, the prosecution presented the testimony of COO Elizabeth Pableo ("Pableo"), who testified that she was assigned at the arrival area, Operations Division, Bureau of Customs, NAIA, Pasay. On August 18, 2010, she was conducting the routine examination of the arriving passengers' baggage when PAL flight 733 arrived from Bangkok around 4:05am and one passenger handed her his customs baggage declaration. She then requested the passenger to place his baggage on top of the examination table. In the course of the examination, she touched the bottom of the luggage and noticed that it was still shallow and the bottom was hard and thick. Thereafter, she asked the passenger as to its contents but the latter denied knowledge of the same. She later found a black cover and saw a hole at the corner of the luggage and when she dipped her finger in the hole and felt some granules. A co-examiner helped her to take out the black cover and they discovered seven (7) packs containing white crystalline substance. She then called the attention of the

Customs Police. She testified further that she placed her marking on the seven (7) packs. The PDEA arrived at the airport and took some samples from the seven (7) packs for qualitative sampling and the latter tested positive for methamphetamine hydrochloride.

Another witness for the prosecution was SA1 Edmond James Mozo ("Mozo") who likewise testified that he placed his initials "EJV" on the plastic bags and requested that samples be examined. The examination followed and the same yielded positive for methamphetamine hydrochloride. Thereafter, they called a representative from the barangay, a Malaysian interpreter and member of the media. That, in open court, the accused was identified as Teoh Chee Keong.

For the defense, it merely presented the lone testimony of appellant, who denied the charge against him. According to him, he and his wife went to Bangkok and Chang Mai and because he still had two remaining days of leave from his office, he decided to go to the Philippines and arrived on August 17, 2010. That, when he came to pick up his luggage, he noticed that his luggage was heavy and that the lock of his luggage was already missing. When he opened his bag, a customs officer asked him what he was doing and he said that he wanted to check his luggage for it was heavy and the lock was missing. Thereafter, he found some clothes and shoes which do not belong to him. He then pulled a plastic from his luggage and asked the customs officer if he knew what it was. After a while, he was already handcuffed and arrested. Appellant further testified that about 80% of the contents of his luggage were not his. Then, a representative from his embassy arrived and told him that he violated the illegal drugs law for carrying methamphetamine hydrochloride.

After trial, the lower court found appellant guilty beyond reasonable doubt of the charge of Violation of Section 5, Article II, R.A. No. 9165 in its assailed Decision dated September 17, 2013, ruling in this wise:

"With the integrity and evidentiary value of the specimen subject of this case preserved and the presumption of regularity in the performance of official duty by law enforcement agents upheld as against the inherently weak defense of the accused which is denial, the court finds that evidence for the prosecution has established the guilt of the accused beyond reasonable doubt which has overcome the presumption of accused's innocence."

Hence, this present appeal.

THE ISSUES

Posed for resolution is whether or not the trial court gravely erred in finding the appellant guilty beyond reasonable doubt of the crime charged and, of similar importance, in convicting the appellant despite the prosecution's failure to establish the identity of the allegedly seized illegal drugs due to the broken chain of custody of evidence.

THE RULING OF THE COURT

Appellant questioned his conviction on the basis of what he claimed as non-compliance with the rule on chain of custody of seized illegal drugs; and the failure

of the prosecution to establish the identity of the same means failure to prove his guilt beyond reasonable doubt.

This Court denies the appellant's appeal for lack of merit.

Appellant's counsel herself debunked appellant's defense of prosecution's failure to establish identity of the seized illegal drugs when she admitted the identity and integrity of the specimens in open court. As regards the illegal drugs subject of Criminal Case No. R-PSY-10-02461-CR, the following is instructive:

"THE COURT: ORDER. When this case was called for continuation of prosecution's presentation of evidence, the testimony of SAI Edmond James Mozo was presented and the same in its entirety was terminated.

Thereafter, the testimony of Forensic Chemist Maria Theresa Anne Domingo was dispensed with considering the following stipulations which were admitted by both parties:

That the specimen was turned over to her by IA1 Ronaldo Delas Alas;

That she does not have any personal knowledge whether IA1 Delas Alas put his markings on the specimen before turning it over to her;

That upon turn-over, she put her markings and gathered representative samples which has been turned over to this court; and,

That she put her markings on the representative samples and turned over the same to the evidence custodian;

xxx xxx xxx. "[2]

Thus, through appellant's counsel, appellant admitted that the seized illegal drugs were turned over by IA1 Ronaldo Delas Alas and properly marked and identified in open court by Forensic Chemist Maria Theresa Anne Domingo; the representative samples were subsequently turned over to the court and then to the evidence custodian. Hence, this admission is sufficient to defeat the claims of appellant.

Moreover, on the alleged non-compliance with the chain of custody this Court is not persuaded by this argument.

Time and again, the Supreme Court has spoken on the chain of custody rule^[3] as a method of authenticating evidence which requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. This would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered in evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain. These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same.^[4]