

SPECIAL SECOND DIVISION

[CA-G.R. CR No. 34944, June 25, 2015]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RIO FAJARITO Y LANDRITO, ACCUSED-APPELLANT.

D E C I S I O N

BRUSELAS, JR. J.:

For review is a *Decision*^[1] that found the accused-appellant Rio Fajarito y Landrito ("*Fajarito*") guilty beyond reasonable doubt of the crime of Illegal Possession of Dangerous Drugs under Republic Act 9165.^[2] The decretal portion of which reads as follows:

"WHEREFORE, in view of the foregoing, judgment is hereby rendered finding accused RIO FAJARITO y LANDRITO GUILTY beyond reasonable doubt of the crime of violation of Section 11, Article II, R.A. No. 9165 and is hereby sentenced to suffer imprisonment of TWELVE (12) YEARS, ONE (1) DAY as minimum to FOURTEEN (14) YEARS as maximum, and to pay a fine of P 300,000.00.

Cost against he accused.

SO ORDERED."^[3]

On 19 June 2007, an Information for Violation of Section 11^[4] of Article II of Republic Act No. 9165, was filed against the accused-appellant Fajarito, the accusatory portion of which reads:

"That on or about June 15, 2007, in the City of Manila, Philippines, the said accused, without being authorized by law to possess any dangerous drug, did then and there willfully, unlawfully and knowingly have in her possession and under her custody and control one (1) heat-sealed transparent plastic sachet containing zero point zero two two (0.022) grams of white crystalline substance containing methylamphetamine hydrochloride or shabu, a dangerous drug.

Contrary to law."^[5]

When arraigned, Fajarito pleaded "*Not Guilty*" to the charge.

During the pre-trial, the prosecution and defense stipulated that: (1) the court has jurisdiction over the person of the accused and the subject matter of the case; and (2) accused Rio Fajarito y Landrito is the same person identified in the Information.

^[6] Trial on the merits thereafter ensued.

The prosecution presented the following witnesses: (1) Police Senior Inspector Elisa Reyes ("*PSI Reyes*"), the Forensic Chemical Officer who conducted the laboratory

examination on the subject specimen; (2) SPO1 Ricardo Manansala ("*SPO1 Manansala*"), the police officer who arrested the appellant; and (3) PO3 Elymar Garcia ("*PO3 Garcia*"), the designated Police Investigator in the case. The defense, on the other hand, presented accused-appellant Fajarito as its sole witness.

The testimony of PSI Reyes, however, was dispensed with after the parties stipulated that she is the same Forensic Chemist who conducted the laboratory examination on the specimen submitted to her on 15 June 2007; that based on her examination, she concluded that the subject specimen yielded positive results to Methylamphetamine Hydrochloride, a dangerous drug; that said examination was reduced into writing on Chemical Report No. D-670-07;^[7] and that she had no personal knowledge as to the source of the specimen as well as to the circumstances surrounding the actual arrest of the Fajarito. The testimony of PO3 Garcia was also dispensed with after the parties stipulated that he was the designated Police Investigator of the case on 15 June 2007; that he took the statements of the witnesses concerned and prepared the following documents: the *Joint Affidavit of Apprehension, Booking Sheet and Arrest Report*, and the *Referral-Letter for Inquest*; and that he had no personal knowledge as to the arrest and recovery of the subject confiscated items.

The prosecution presented a simple narration of facts of the case. According to the prosecution, at around 1:00 o'clock in the afternoon of 15 June 2007, SPO1 Manansala and PO2 Federico Casuple, members of the Anti-Crime Unit of Police Station No. 2, Manila Police District, were conducting an anti-criminality patrol along St. Peter Street, Tondo, Manila, when they saw a young lady, later identified to be appellant Fajarito, approaching their direction and holding a small plastic sachet containing a white crystalline substance. Upon seeing them, Fajarito tossed away the plastic sachet, prompting SPO1 Manansala to pick it up. The latter asked Fajarito why she was carrying the said plastic sachet to which she did not give any answer.

SPO1 Manansala then informed Fajarito of the nature of her offense and was apprised of her constitutional rights. Fajarito was later brought to Police Station No. 2 in Moriones, Tondo, Manila.

At the police station SPO1 Manansala marked the plastic sachet with the initials "*SAID*" and turned it over to police investigator PO3 Garcia, who, in turn, prepared the request for laboratory examination and brought the seized item to the PNP-MPD Crime Laboratory.

In the Chemistry Report No. D-670-07, prepared by Forensic Chemist PCI Reyes, the contents of the heat-sealed plastic sachet marked with the the initials "*SAID*" yielded positive for methylamphetamine hydrochloride, a dangerous drug.

The defense, on the other hand, presented a different version of the facts. Fajarito claimed that on 15 June 2007, after leaving her child in school, she went to a video game shop, in front of her neighbor's house, at St. Peter Street in Tondo, Manila. While sitting by herself in front of the video game shop, a man wearing a yellow polo shirt and khaki pants suddenly approached her and told her, "*diyan ka lang wag kang gagalaw.*" When she asked the man, "*bakit po?*", the latter did not reply and instead, asked her to stand up. When she stood up, she again asked the man, "*bakit po?*", but the latter did not answer her and this time, he ordered her to empty her pockets. After showing to the man her wallet containing P 40.00 consisting of two (2) pieces of twenty peso bill, the latter forced her to go with him to the precinct.

She resisted and told him, "*bakit po ako sasama, wala po akong alam.*" The man then grabbed her wrist and whispered to her that it was for investigation purposes but when she asked him what kind of investigation, the latter did not reply.

Fajarito claimed that she did not shout for help because during that time, there were no other persons in the area; that she and the man walked for about five (5) minutes, and then they rode in a tricycle to Police Station 2; that when they arrived at the police station, she was brought inside the cell and then the man who arrested her ordered a female detainee inside the cell to frisk her; that the female detainee said negative; that she stayed in the police station for 7 to 8 days; that she only learned at the police station that the man who apprehended her on 15 June 2007 along St. Peter Street, Tondo, Manila went by the name SPO1 Ricardo Manansala; that SPO1 Manansala charged her with violation of Section 11; that she does not have any grudge against SPO1 Manansala; and that she could not think of any reason why SPO1 Manansala would tell a lie against her because she did not know him prior to his arrest.

The court *a quo* rendered the assailed decision which found Fajarito guilty beyond reasonable doubt of the crime of violation of Section 11, Article 2 of R.A. 9165. The trial court gave full faith and credit to the evidence of the prosecution and upheld the presumption of regularity in the performance of duties of the police officers.

Invoking her innocence, Fajarito appeals her conviction before the Court and seeks her acquittal by raising the lone assignment of error:

"THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED, AS THE PROSECUTION FAILED TO OVERTHROW HER CONSTITUTIONAL PRESUMPTION OF INNOCENCE."

Fajarito's appeal has merit.

In the prosecution for illegal possession of dangerous drugs, the following elements must be duly established: (1) the accused is in possession of an item or object that is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the said drug.^[8]

Similar to illegal sale, in illegal possession of dangerous drugs, the prosecution must show the chain of custody over the dangerous drug in order to establish the *corpus delicti*, which is the dangerous drug itself. Proof beyond reasonable doubt demands that unwavering exactitude be observed in establishing the *corpus delicti* – the body of the the crime whose core is the confiscated illicit drug.^[9] Thus, every fact necessary to constitute the crime must be established.

To be able to identify the dangerous drug and effectively prove the *corpus delicti*, Section 21 of Republic Act No. 9165 and Section 21(a) of the Implementing Rules and Regulations of Republic Act No. 9165 (IRR) define the procedures to be followed by the apprehending officers in the seizure and custody of the dangerous drugs.

Section 21 of Republic Act No. 9165 relevantly 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:

(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;"

Similarly, Section 21(a), IRR of Republic Act No. 9165 pertinently states:

"(a) The apprehending office/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;"

"*Chain of Custody*" means the duly recorded authorized movements and custody of seized drugs, controlled chemicals, plant sources of dangerous drugs or paraphernalia at each stage, from the time of seizure/confiscation to receipt by the forensic laboratory to safekeeping to presentation in court for destruction. Such record of movements and custody of seized item shall include the identity and signature of the person who held temporary custody of the seized item, the date and time when such transfers of custody were made in the course of safekeeping and use in court as evidence, and the final disposition.^[10]

The chain of custody rule comes into play as a mode of authenticating the seized illegal drug as evidence. It includes testimony about every link in the chain, from the moment the object seized was picked up to the time it is offered in evidence, in such a way that every person who touched it 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. The same 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. It is from the testimony of every witness who handled the evidence from