

EIGHTEENTH DIVISION

[CA-GR. CR. NO. 02126, August 28, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RENATO MASCARDO SARNE, ACCUSED-APPELLANT.**

D E C I S I O N

INGLES, G. T., J.:

Before us is an appeal seeking to annul and reverse the Judgment^[1] of the Regional Trial Court, 7th Judicial Region, Branch 30, Dumaguete City dated March 11, 2013 in Criminal Case No. 20115 for Violation of Section 11, Article II of Republic Act 9165 which sentenced accused-appellant as follows:

"WHEREFORE, in the light of the foregoing, the Court hereby finds the accused Renato Mascardo Sarne GUILTY beyond reasonable doubt of the offense of illegal possession of 0.69 gram of *shabu* in violation of Section 11, Article II of R.A. No. 9165 and is hereby sentenced to suffer an indeterminate penalty of twelve (12) years and one (1) day as minimum term to fourteen (14) years as maximum term and to pay a fine of Four Hundred Thousand Pesos (P400,000.00).

The three (3) heat-sealed transparent plastic sachets with markings "RS-P1 to P3" all with the date 9-16-10 containing a total aggregate weight of 0.69 gram of *shabu* are hereby confiscated and forfeited in favor of the government and to be disposed of in accordance with law.

SO ORDERED."

Herein appellant was charged per the following amended information,^[2] to wit:

"That on or about the 16th day of September, 2010 in the City of Dumaguete, Philippines, and within the jurisdiction of this Honorable Court, the said accused, not being then authorized by law, did, then and there willfully, unlawfully and feloniously possess and keep in a big transparent sachet three (3) heat-sealed transparent plastic sachets containing a total aggregate weight of 0.69 grams of Methamphetamine Hydrochloride, locally known as "*shabu*," a dangerous drug.

That accused was found positive for use of Methamphetamine as reflected in Chemistry Report No. CDT-071-10."

Upon arraignment, accused-appellant pleaded not guilty to the crime charged.^[3]

Pre-trial^[4] was thereafter conducted and the parties stipulated on the following facts:

1. That this Court has jurisdiction over this case and over the person of the accused.
2. The identity of the accused Renato Mascardo Sarne is admitted as the accused party in this case.
3. That the accused was arrested by virtue of a search warrant dated September 16, 2010 at Barangay Cadawinonan, Dumaguete City, which led to the filing of this case.
4. That the accused is not authorized by law to possess the dangerous drug subject of this case.
5. That the accused admitted to the existence of the confirmatory drug test which found him positive for use of Methamphetamine.
6. That PCI Josephine S. Llena is an expert witness for the prosecution being the Forensic Chemist of the Negros Oriental Provincial Crime Laboratory.

Thereafter, trial ensued. The prosecution presented the following witnesses, namely: PO2 Mark Jester Ayunting,^[5] SPO4 Douglas Ferrer,^[6] NBI Special Investigator Marlon Manzanaris,^[7] Barangay Kagawad Maria Emily Olivo,^[8] DOJ representative Ramonito Astillero^[9] and media representative Juancho Gallarde.^[10] The version of the prosecution as summarized from the testimonies of the above witnesses, is as follows:

In the afternoon of September 16, 2010, the law enforcement operatives named above served a warrant of arrest^[11] on Renato Sarne, a.k.a. Natoy, which warrant was issued in relation to Criminal Case No. 20068 entitled People of the Philippines vs. Renato Sarne, a.k.a. Natoy. The warrant was served in Barangay Cadawinonan Housing Project in Dumaguete City where accused resided. Upon arrival thereat, they found accused in his house and thereafter introduced themselves and presented to the accused the warrant of arrest. SPO4 Ferrer then effected arrest after informing the accused of his constitutional rights in a dialect known to the latter. PO2 Ayunting then proceeded to search the accused for possible weapons and other illegal items. From the pocket of accused, PO2 Ayunting found three (3) pieces of plastic sachets with suspected *shabu* which were all placed inside a bigger plastic sachet. He immediately marked the same as follows: "RS-P 9-16-10" for the big unsealed transparent plastic sachet containing the three (3) small sachets and "RS-P1 9-16-10," "RS-P2 9-16-10" and "RS-P3 9-16-10" for the three (3) small sachets. Having been informed by PO2 Ayunting of his discovery, SPO4 Ferrer effected arrest on accused again for illegal possession of dangerous drugs. He was again told of his constitutional rights in a dialect known to him and he confirmed that he understood the same.

The accused, together with the seized items were then brought to the office of the NBI and an inventory^[12] was conducted thereat by SI Manzanaris in the presence of the accused, DOJ representative Ramonito Astillero, media representative Juancho Gallarde, Barangay Kagawad Maria Emily Olivo and PDEA representative SI2 Ivy Claire Oledan, who were called in for that purpose. The Inventory/Receipt of Drugs and Other Property Seized^[13] was duly signed by the above witnesses as well as by PO2 Ayunting and SI Manzanaris. The inventory was not conducted at the scene of the crime because the operatives did not have the necessary form for an inventory. The incident was also entered in the PDEA blotter.^[14]

A written request^[15] for laboratory examination for the items recovered and drug test of accused was made by PO2 Ayunting and delivered by him to the Negros Oriental Provincial Crime Laboratory Office in Dumaguete City. It was received by the forensic chemist, P/C Insp. Josephine Suico Llena. The latter remarked them as follows: Specimen "A" for unsealed plastic sachet with markings "RS-P 9-16-10," Specimen "A-1" to "A-3" for the plastic sachets marked as "RS-P1 9-16-10," "RS-P2 9-16-10" and "RS-P3 9-16-10." When weighed, Specimen "A-1" was 0.19 gram; Specimen "A-2" was 0.45 gram and Specimen "A-3" was 0.05 gram. Per Chemistry Report No. D-109-10,^[16] the above specimen were found positive for methamphetamine hydrochloride, a dangerous drug. Also per Chemistry Report No. CDT-071-10,^[17] the urine drug test conducted on accused was found positive for the presence of Methamphetamine. PCI Llena was also able to submit Specimens "A-1" to "A-3" together with her chemistry report to the trial court during the hearing of the case.

The defense, on the other hand, presented accused^[18] himself together with Virgilio Macias^[19] and Rene Santillan.^[20] The version of the defense as summarized from the testimonies of the above witnesses, is as follows:

On the date and time of the incident, accused, who came from the market, arrived in his house in Barangay Cadawinonan, Dumaguete City, before he could disembark from his motorcycle, a group of law enforcers accosted him. A certain Junjun Sy pinned his hands which were still in the handlebars. He disembarked and held up his hands. He was then bodily searched by a law enforcer whom he later knew as Police Officer Glenn Corsame but the latter recovered nothing. He was then told that there is a warrant for his arrest but it was not shown to him. This was witnessed by Virgilio Macias, a childhood friend of accused, and Rene Santillan, the owner of the fighting cocks accused is the "handler" of. The two were in accused house at that time, awaiting for his return, as they intended to have a cockfight then.

According to Macias and Santillan, while they were waiting for the accused to arrive, a group barged into the premises of the residence of the accused. They recognized some of them namely: Junjun Sy, Police Officers Glenn Corsame and Mark Ayunting and a certain Marlon, who had a shotgun. These men were also looking for the accused and they told them that accused was not around. The group waited for accused and told Macias and Santillan to stay and not to use their cellular phones. One of them searched the stockroom of the accused.

Later on, someone informed them that accused was arriving, Macias and Santillan were then allowed to leave. On their way out, they saw the police officers accosting

accused in his motorcycle.

According to the accused, he was then brought inside his house where his wife and an errand boy were present. The police officers informed his wife that they will be bringing accused with them. Accused was then handcuffed as they were about to leave. He was brought to the NBI Office where Ayunting showed to him *shabu* allegedly recovered from him. Accused denied having *shabu* in his possession and told Marlon Manzanaris of the NBI about it. The latter replied that he was there merely to conduct an inventory and has called witnesses for this purpose. The latter also said to the accused: "Since it is not yours, because it is already there, you just tell the truth later that that does not belong to you."

Based on the foregoing, the Court *a quo* rendered its judgment, in the manner and tenor quoted above.

Aggrieved, accused-appellant appealed the court *a quo*'s judgment and raised the following assignments of error in his Appellant's Brief,^[21] to wit:

I

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF POSSESSING ILLEGAL DRUGS DESPITE THE SERIOUS (SIC) OF THE *CORPUS DELICTI* OF THE CRIME COMPROMISING ITS INTEGRITY AND IDENTITY.

II

THE TRIAL COURT ERRED IN FINDING ACCUSED-APPELLANT GUILTY OF POSSESSION OF ILLEGAL DRUGS DESPITE THE FACT THAT THE POLICE OFFICERS VIOLATED SECTION 21 OF R.A. 9165.

III

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF POSSESSING ILLEGAL DRUGS DESPITE THE INADMISSIBILITY OF THE EVIDENCE AGAINST HIM FOR HAVING BEEN OBTAINED UNDER AN INVALID WARRANTLESS ARREST IN VIOLATION OF HIS CONSTITUTIONAL RIGHTS.

The appeal does not merit this Court's consideration.

Appellant contends that the court *a quo* erred in convicting him inasmuch as the prosecution failed to prove the identity of the *corpus delicti*. Appellant argued that from the testimony of prosecution witness DOJ Representative Ramonito Astillero, it was revealed that the latter saw four (4) packs of *shabu* during the inventory yet, herein appellant was charged for possession of only three (3) packs of *shabu*. According to appellant, this brings into question the identity of the packs of *shabu* subject of the inventory and the ones submitted to the court as evidence against him.

Appellant's contention is bereft of merit. With quote with approval the findings of the