

TWENTIETH DIVISION

[CA-G.R. CEB-CR HC NO. 01713, October 29, 2014]

PEOPLE OF THE PHILIPPINES, PLAINTIFF- APPELLEE, VS. RAUL INEHENTE Y CABASA, ACCUSED-APPELLANT.

DECISION

HERNANDO, J.:

This is an appeal filed by accused-appellant Raul Inehente y Cabasa, seeking review of the June 27, 2013 Decision^[1] of the Regional Trial Court (RTC), Branch 57, of Cebu City finding him guilty beyond reasonable doubt for Violation of Sections 5 and 11, Article II of Republic Act (R.A.) No. 9165, in Criminal Case Nos. CBU-84843 and CBU-84844, respectively.

The Antecedents:

Accused-appellant was charged in two Informations for violation of R.A. No. 9165, the first is for violation of Section 5 committed as follows:

INFORMATION (CBU-84843)

That on or before the 26th day of November, 2008, at about 8:50 in the evening, in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent, without being authorized by law, did then and there sell, deliver or give away to a poseur buyer One (1) heat sealed transparent plastic sachet of white crystalline substance, weighing 0.02 gram locally known as SHABU, containing Methamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.”

The second offense, for violation of Section 11 of R.A. No. 9165, was allegedly committed as follows:

INFORMATION (CBU-84844)

That on or about the 26th day of November, 2008, at about 8:50 o'clock in the evening, in the City of Cebu, Philippines and within the jurisdiction

of this Honorable Court, the said accused, with deliberate intent, w/o authority of law, did then and there have in his possession and control five (5) heat sealed transparent plastics sachet of white crystalline substance with a total weight of 0.06 gram, locally known as shabu, containing methamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.”

When arraigned on February 5, 2009, accused-appellant pleaded not guilty to both charges. Thereafter, trial on the merits commenced with the prosecution presenting as witnesses IA1 Baby Rallos and IA5 Yogi Felimon Ruiz. For the defense, the accused-appellant solely took the witness stand.

The facts of the case according to the prosecution are summarized as follows:

In the morning of November 26, 2008, agents of the Philippine Drug Enforcement Agency (PDEA) received a tip from their confidential informant that accused-appellant was engaged in the sale of illegal drugs in Pasil, Cebu City. Pursuant to the tip relayed to them, a buy-bust team was formed. It was composed of IO4 Julius Navales, IA1 Baby Rallos, IO3 Yogi Felimon Ruiz and IO1 Moises Arriescado. At about seven o'clock in the evening, a briefing was conducted where IA1 Rallos was designated as the poseur buyer together with the confidential informant. IA1 Rallos was then given two 100-peso bills (with serial No. LK887881 and VY807911)^[2] as marked money for the buy-bust operation. The team also agreed that the pre-arranged signal for the confirmation of the sale would be a “missed call” from IA1 Rallos. After the briefing, a Pre-Operation Report^[3] and an Authority to Operate^[4] was prepared. Thereafter, the buy-bust team proceeded to the target area.

At about 15-20 meters away from the target area, IA1 Rallos and the confidential informant alighted from the service vehicle. They then proceeded towards the accused's place of business on foot. After exchanging pleasantries, accused asked what IA1 Rallos wanted. IA1 Rallos asked if he could buy two hundred peso worth of *shabu* and gave accused the marked money bearing the initials “ER”. Subsequently, accused gave IA1 Rallos a small plastic pack containing white crystalline substance suspected as *shabu*. This prompted IA1 Rallos to give the pre-arranged signal, which tipped-off his teammates that the sale has been concluded. As his team approached the target area, IA1 Rallos introduced himself as a PDEA agent to the accused. The latter tried to evade arrest but was later caught after a brief chase. Pursuant to the arrest, accused was frisked. The body search led to the recovery of the buy-bust money, cash worth Five Hundred Pesos and five additional plastic packs containing white crystalline substance. The evidence seized from accused was surrendered to the custody of IA1 Rallos for safekeeping. Concerned for their safety and security, the team decided to pull out from the area and head to their office.

At the PDEA office, the plastic packs were respectively marked as “RCI-SS-11/26/08” and “RCI-01 11/26/08” to “RCI-05 11/26/08”. An inventory^[5] of the seized evidence was then prepared and photographs were taken.^[6] Thereafter, a request^[7] for laboratory examination of the plastic packs suspected of containing illegal drugs was made. IA1 Rallos then delivered the seized evidence to the crime

laboratory which was received by PO1 Sagun.

After examining the contents of the plastic packs, Mutchit Salinas, the Forensic Chemical Officer who conducted the tests, reduced into writing his findings in Chemistry Report No. D-1231-2008.^[8] He concluded that the qualitative examination of the specimens gave positive results for the presence of methylamphetamine hydrochloride, a dangerous drug.

Conversely, interposing denial and mistaken identity, accused espouses the following facts to exonerate himself:

On the evening of November 26, 2008, while accused was having dinner, PDEA agents suddenly barged into his house and asked if he was Junjun. Accused stressed that he was brought to the police station after giving an affirmative answer. At the office, he was told that Junjun Filomeno was a *shabu* dealer. Accused admitted knowing Junjun since the latter's house is only ten meters away from his house. He then rationalized that the PDEA agents probably committed a mistake in entering his house and arresting him. Moreover, accused alleged that he asked the PDEA agents to release him since Junjun had already been arrested. During the conduct of the inventory, accused asserted that he failed to inform anyone of the mistaken identity.

After trial, the court *a quo* rendered the assailed Decision finding accused-appellant guilty beyond reasonable doubt because the denial espoused by him, which is that he was not caught in a buy-bust operation, utterly failed to convince the court. Moreover, it ratiocinated that the defense of denial and frame-up adduced by accused-appellant was baseless and cannot stand against the positive testimonies of the police officers who had no ill motive on their part in testifying against him.

Hence, the current appeal before Us.

The Issue:

The sole issue in this appeal is whether or not the appellant's guilt was proven beyond reasonable doubt.

The Court's Ruling

The appeal is bereft of merit.

The elements needed to successfully prosecute an accused for the violation of Article II, Section 5 of R.A. No. 9165 are as follows:

- (1) identities of the buyer and seller, the object, and the consideration; and
- (2) the delivery of the thing sold and the payment therefor.^[9]

Here, IA1 Rallos, the poseur-buyer, categorically testified that he gave two 100-peso bills (marked as "ER") to the appellant as payment for the plastic pack of *shabu* subsequently given to him by appellant. Thereafter, IA1 Rallos executed the pre-