

EIGHTEENTH DIVISION

[CA-GR. CR. HC. NO. 01517, November 28, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
EMMANUEL SISON Y LOPEZ, ACCUSED-APPELLANT,**

D E C I S I O N

INGLES, G. T., J.:

The Case

This is an appeal filed by accused-appellant Emmanuel Sison y Lopez, of the Decision^[1] dated July 2, 2012 of the Regional Trial Court, Sixth Judicial Region, Branch 36, Iloilo City, which found accused-appellant guilty beyond reasonable doubt of Violation of Section 5 of Article II of RA No. 9165 or the Dangerous Drugs Act of 2002 in Criminal Case No. 06-62369 while acquitting him of Violation of Section 12, Article 2 of RA 9165 in Criminal Case No. 06-62370.

Version of the Prosecution

Chief Inspector P/Supt Gustilo instructed some police officers of the Iloilo City Police Station to conduct surveillance at Barangay Baldoza, Lapaz, Iloilo City against accused-appellant Emmanuel Sison. The surveillance confirmed that illegal drug activities were made by accused-appellant. A buy-bust team was formed composing of PO3 June Esporas, SPO1 Josefino Barroca, SPO2 Ramos, PO Quiambao, PO3 Hagmay Dignadice, Mario Hortillas, PO2 Decrepito, and Major Garvanzos headed by Chief Inspector P/Supt Gustilo. It was agreed during the briefing that PO3 Esporas would act as poseur-buyer and would be given the marked money of P100.00 while the rest of the team members would serve as reinforcement.

Around 11:30 AM, on March 16, 2006, the team members proceeded to Lapaz Plaza and from there, PO3 Esporas and SPO3 Barroca rode the jeepney to reach the target area at Barangay Baldoza, La Paz. PO3 Esporas disembarked at Barangay Baldoza while SPO1 Barroca proceeded to the target area.

Upon arrival at the target area, PO3 Esporas saw accused-appellant along the alley and told him he intended to buy P 100.00 worth of shabu. Accused-appellant brought PO3 Esporas to his house located at the interior portion. When they arrived at accused-appellant's house, PO3 Esporas gave the buy-bust money to the former and in return, PO3 Esporas received the plastic sachet containing white crystalline substance. PO3 Esporas then introduced himself as a police officer and shortly thereafter, SPO3 Barroca and the rest of the team members arrived.

Chief Inspector P/Supt Gustilo directed one of the police officers to call a Barangay Kagawad and upon the latter's arrival, the team conducted a body search on

accused-appellant which yielded the buy bust money with Serial Number LV 357606. Several sachets containing white crystalline substance suspected to be shabu were also seized on top of the table of accused-appellant's house. The seized items were then brought to the Iloilo City Police Office, Intelligence Section since there was already a commotion at the crime scene.

At the police station, PO3 Esporas turned over the seized items to PO1 Arnulfo Parita together with the receipt of the property seized. PO1 Parita took custody of all the confiscated items and placed them individually in a plastic container with markings "ATP-1" to "ATP-7", in the presence of SPO3 Barroca, and PO3 June Esporas. Subsequently, PO1 Parita brought the articles before the Prosecutor's Office for inventory and were then presented to Public Prosecutor Nora Espanola who signed said inventory sheet. PO1 Parita likewise brought the seized and marked items to the PNP Regional Crime Laboratory. Forensic Chemist and Assistant Regional Chief of the PNP Crime Laboratory Office VI, P/Supt Angelica Baldevieso conducted a laboratory examination on the six (6) plastic sachets containing white crystalline substance which yielded positive for methylamphetamine hydrochloride as found in Chemistry Report^[2] No. D-070-06.

The Charge

In the Informations dated March 21, 2006, accused-appellant was charged with the crime of Violation of Sections 5, and 12, of Article II of RA No. 9165, respectively, as follows:

Crim Case No. 06-62369^[3]

"That on or about the 16th day of March, 2006, in the City of Iloilo, Philippines and within the jurisdiction of this Court, said accused, with deliberate intent and without any justifiable motive, did then and there willfully, unlawfully and feloniously sell, distribute and deliver to PNP poseur-buyer one (1) small elongated heat-sealed transparent sachet containing 0.024 gram of methamphetamine hydrochloride (shabu), a dangerous drug, in consideration of P 100.00, without the authority to sell, distribute and deliver the same; that one (1) P 100-peso marked bill with Serial No. LV-357607 used as buy-bust money was recovered from possession of the herein accused."

CONTRARY TO LAW".

Crim Case No. 06-62370^[4]

"That at on or about the 16th day of March, 2008, in the City of Iloilo, Philippines and within the jurisdiction of this Court, the said accused, with deliberate intent and without justifiable motive, did then and there willfully, unlawfully and feloniously have in his possession and control (5) pieces small opened/used transparent plastic sachet, two (2) of which

contain traces of shabu residue, six (6) pieces rolled aluminum foil, five (5) pieces disposable lighter, two (2) pairs of scissors, and one piece cutter, all of which are considered paraphernalias/equipment fit and intended for administering, consuming and introducing into the body dangerous drugs such as marijuana and methamphetamine hydrochloride (shabu) without the authority to possess the same."

CONTRARY TO LAW."

On February 1, 2007, accused-appellant was separately arraigned and pleaded "not guilty" to the crimes charged against him.

Joint trial ensued. The prosecution presented the following as witnesses: PO3 June Esporas, SPO3 Josefino Barroca, PO1 Arnulfo Parita, and Forensic Chemist P/Supt. Angelica Baldevieso. On the other hand, accused-appellant testified for his defense.

Version of Accused-appellant

Accused-appellant narrated that around 1:30 PM on March 16, 2006, he was at a store in Barangay Baldoza, Lapaz, Iloilo City drinking softdrinks and smoking. All of a sudden, several police officers arrived at the area and were looking for a particular person but could not find him. He then saw them holding passers-by and subjecting them to body search. When it was accused-appellant's turn, nothing was recovered from his possession but he was still invited for questioning. While walking towards the main road, a police officer told accused-appellant to stay behind as nothing was recovered from him. P/Supt Gustilo, however, ordered that he should go with the police officers so that he was brought to the police station. Accused-appellant was asked about a certain Melvin but he replied that he did not know anybody by that name. P/Supt Gustilo got irritated and he dragged accused-appellant to another area wherein the latter was struck with a hose. Subsequently, accused-appellant heard P/Supt Gustilo order the policemen to plant evidence against the former. Accused-appellant then saw the plastic sachets, lighter and foils placed on top the table and he was told that a case would be filed against him. Accused-appellant was later brought to Police Station 2.

The RTC Ruling:

Thereafter, on July 2, 2012, the Regional Trial Court, Branch 36, Iloilo City rendered a Decision^[5] against accused-appellant, the pertinent portion of which reads:

"Wherefore, judgment is hereby rendered, as follows:

- 1.** *Finding accused Emmanuel Sison y Lopez guilty beyond reasonable doubt of violation of Section 5, Article II, Republic Act No. 9165 under Criminal Case No. 06-62369 and sentencing him suffer the penalty of life imprisonment and to pay the fine of Five Hundred Thousand (P500,000.00).*
- 2.** *Finding accused Emmanuel Sison y Lopez Not Guilty of violation of*

Section 12, Article II of Republic Act 9165 under Criminal Case No. 06-62370 for failure of the prosecution to prove his guilt beyond reasonable doubt.

The shabu (Exhibit "J-1") subject of Criminal Case No. 06-62369, the other items (Exhibits "M" to "M-6", "N-1" to "N-5", "O" to "O-1" and "P") subject of Criminal Case No. 06-6262370 which may be used for illegal purpose are confiscated in favor of the government and the OIC Branch Clerk of Court is directed to immediately turn over said item to the Philippine Drug Enforcement Agency, Region 6 for proper to existing rules and regulations.

On the other hand, the One Hundred Peso bill (Exhibit "L-1) is ordered to be returned to the Intelligence Section, Iloilo City Police Office.

SO ORDERED."

Aggrieved, accused-appellant now comes to this Court seeking a reversal of his conviction and assigning as errors, thus:

I.

"THE HONORABLE REGIONAL TRIAL COURT ERRED IN FINDING THAT THE IDENTITY AND INTEGRITY OF THE SEIZED ITEMS HAVE NOT BEEN COMPROMISED;

II.

THE HONORABLE REGIONAL TRIAL COURT ERRED IN GIVING GREATER CREDENCE TO THE TESTIMONIES OF THE POLICE OFFICERS/ARRESTING OFFICERS; and

III.

THE HONORABLE REGIONAL TRIAL COURT ERRED IN NOT ACQUITTING THE ACCUSED-APPELLANT."

THIS COURT'S RULING:

There is merit in the appeal.

In all prosecutions for violation of the Dangerous Drugs Act, the existence of all dangerous drugs is a sine qua non for conviction. The narcotic substance itself constitutes the very corpus delicti of the offense and the fact of its existence is vital to sustain a judgment of conviction. It is therefore of prime importance that the identity of the dangerous drug be likewise established beyond reasonable doubt. Hence, every fact necessary to constitute the offense must be established. The chain of custody requirement ensures that unnecessary doubts concerning the identity of the evidence are removed. Of chief concern in drug cases then is the requirement that the prosecution prove that what was seized by police officers is the same item presented in court. This identification, as the High Court has held in the

past, must be established with moral certainty and is a function of the rule on chain of custody. The chain of custody requirement is therefore essential to ensure that doubts regarding the identity of the evidence are removed through the monitoring and tracking of the movements of the seized drugs from the accused, to the police, to the forensic chemist, and finally to the court.^[6]

In ***People vs. Mapa, GR No. 91014, March 31, 1993***, the accused-appellant was granted an acquittal after the prosecution failed to clarify whether the specimen submitted to the NBI for laboratory examination was the same one allegedly taken from the accused. In ***People vs. Dismuke, GR No. 108453, July 11, 1994***, the Supreme Court ruled that the failure to prove that the specimen of marijuana examined by the forensic chemist was that seized from the accused was fatal to the prosecution's case. Too, in ***People vs Partoza, GR No. 182418, May 8, 2009***, the Supreme Court elucidated on the importance of proving the corpus delicti of the offense, enumerating several cases wherein the court favored an acquittal because of failure to prove the corpus delicti, viz:

xxx xxx xxx

"In People v. Obmiranis, appellant was acquitted due to the flaws in the conduct of the post-seizure custody of the dangerous drug allegedly recovered from appellant, taken together with the failure of the key persons who handled the same to testify on the whereabouts of the exhibit before it was offered in evidence in court. In Bondad v. People, this Court held that the failure to comply with the requirements of the law compromised the identity of the items seized, which is the corpus delicti of each of the crimes charged against appellant, hence his acquittal is in order. And in People v. de la Cruz, the apprehending team's omission to observe the procedure outlined by R.A. No. 9165 in the custody and disposition of the seized drugs significantly impairs the prosecution's case. "

In a prosecution for illegal sale of dangerous drugs, the following elements must be established: (1) proof that the transaction or sale took place; and (2) presentation in court of the corpus delicti or the illicit drug as evidence. ^[7] It must be stressed that the existence of dangerous drugs is a condition sine qua non for conviction for the illegal sale of dangerous drugs, it being the very corpus delicti of the crime.^[8] Central to this requirement is the question of whether the drug submitted for laboratory examination and presented in court was actually recovered from accused-appellant. Hence, this Court adopts the chain of custody rule.

Chain of Custody

As a method of authenticating evidence, the chain of custody rule 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. It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered into 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