



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Appellee,

G.R. No. 206888

Present:

CARPIO, *J.*, Chairperson,
BRION,
DEL CASTILLO,
MENDOZA,* and
LEONEN, *JJ.*

- versus -

MARITESS CAYAS Y CALITIS @
"TETET",

Promulgated:

04 JUL 2016

Appellant.

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DECISION

BRION, J.:

We resolve the appeal of accused-appellant Maritess Cayas y Calitis @ "Tetet" (*Cayas*) assailing the July 16, 2012 decision¹ of the Court of Appeals (*CA*) in CA-G.R. CR-H.C. No. 04295. The *CA* affirmed the July 9, 2009 decision² of the Regional Trial Court (*RTC*), Branch 16, Cavite City, finding Cayas guilty beyond reasonable doubt of violating Sections 5 & 11 of Republic Act (*R.A.*) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

The Facts

Cayas was formally charged with illegal sale and possession of dangerous drugs in two (2) separate informations. She pleaded not guilty to both charges.

* On Official Leave.

¹ *Rollo*, pp. 2-21; *CA rollo*, pp. 102-121; penned by Associate Justice Rodil V. Zalameda, and concurred in by Associate Justice Andres B. Reyes, Jr. and Associate Justice Ramon M. Bato, Jr.

² *CA rollo*, pp. 13-23; *RTC records*, pp. 166-176; penned by Judge Manuel A. Mayo.

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The evidence for the prosecution consists of the testimonies of the arresting police officers; object evidence, *i.e.*, the buy-bust money and the confiscated drugs; and documentary evidence on the prior surveillance of Cayas and the chain of custody of the illegal drugs.

On October 8, 2003, pursuant to the order of their officer in charge, PO2 Dominador Ronquillo (*PO2 Ronquillo*), PO2 Allen Padilla (*PO1 Padilla*), PO1 Alexander Sernat (*PO1 Sernat*), and a confidential asset were at Barangay San Rafael IV, Noveleta, Cavite, to conduct a buy-bust operation on Cayas. Prior to the operation, the team conducted surveillance on her residence because Cayas, her husband, and her mother-in-law were named in a validated drug watchlist.³

Acting as the poseur-buyer, PO2 Ronquillo proceeded to the house where Cayas was staying accompanied by the confidential asset. PO1 Padilla and PO1 Sernat positioned themselves a few meters away from the house where they could still observe what was going on.

When Cayas saw PO2 Ronquillo and the confidential asset outside the door of her house, she approached them and asked how much *shabu* they wanted to buy. The confidential asset told Cayas that they were going to buy ₱ 100.00 worth of *shabu*. PO2 Ronquillo then handed Cayas the pre-marked ₱ 100.00 bill.⁴ Cayas, in turn, took out a plastic sachet containing a white crystalline substance from her pocket and handed it to PO2 Ronquillo. After putting the plastic sachet inside his pocket, PO2 Ronquillo introduced himself as a police officer and accosted Cayas.

When they saw PO2 Ronquillo holding onto Cayas, PO1 Padilla and PO1 Sernat came in and arrested her. Before PO1 Padilla placed handcuffs on Cayas, he frisked her and found in her possession two (2) other plastic sachets containing *shabu*.⁵

Cayas was brought to the Noveleta Municipal Police Station where the plastic sachets were handed to PO3 Genuino. In the presence of Cayas and her arresting officers, PO3 Genuino marked the plastic sachets. The request for laboratory examination was prepared and was forwarded to the Provincial PNP Crime Laboratory in Imus, Cavite, along with the seized drugs.⁶ After a quantitative and qualitative examination, Police Inspector Maridel Cuadra Rodis (*PI Rodis*) issued Chemistry Report No. D-504-03 finding that the contents of the plastic sachets tested positive for *methamphetamine hydrochloride*.⁷

In her testimony, Cayas narrated a different version of the events. She said that in the evening of October 8, 2003, Cayas was inside her residence

³ Exhibit "A," records, Vol. I, pp. 149.

⁴ Exhibit "B," records, Vol. II, pp. 8.

⁵ PO1 Padilla also retrieved the buy-bust money from Cayas.

⁶ Exhibit "D," records, Vol. I, pp. 151.

⁷ Exhibit "E," records, Vol. I, pp. 152.

at Pulo 1, Dalahican, Cavite City, looking after her children while watching television. She denied that she was inside a house located at Barangay San Rafael IV, Noveleta, Cavite.

Because her youngest child started crying, Cayas decided to leave the house to buy her daughter biscuits. When she was about to step out with her two-year-old daughter, PO1 Padilla stopped her and grabbed her hand. PO2 Ronquillo then asked Cayas the whereabouts of her husband. Cayas replied that her husband was out at sea. The police officers then showed her two (2) plastic sachets, told her that they contained *shabu*, and asked for ₱200.00. Cayas replied that she did not know what they were talking about but pulled out ₱ 2.00 from her pocket. PO1 Padilla then told PO2 Ronquillo that there was no marked money in Cayas' pocket but they had enough evidence.

Thereafter, Cayas and her two (2) year old daughter were brought to the police station in Noveleta, Cavite. Before she was placed inside a detention cell, Cayas was frisked for drugs but none was found on her.

The Ruling of the RTC

In its July 9, 2009 decision, the RTC found Cayas guilty beyond reasonable doubt of illegal sale and possession of *shabu*, and sentenced her to suffer the penalty of life imprisonment for illegal sale, and imprisonment for twelve (12) years and one (1) day to fourteen (14) years for illegal possession.

The RTC held, among others, that Cayas was legally arrested because PO2 Ronquillo went through the motions of buying *shabu* from her. It gave more weight and credence to the testimonies of her arresting officers because Cayas' defense of denial and frame-up were self-serving. It added that *police officers are presumed to have regularly performed their official duty in the absence of evidence to the contrary.*

The Case before the CA

In the assailed decision, the CA found no reason to disturb the findings of fact of the trial court because Cayas failed to show any glaring error, misapprehension of facts, and speculative, arbitrary, and unsupported conclusions. It ruled that the prosecution successfully proved all the elements of both illegal sale and illegal possession of dangerous drugs. In addition, the existence of the *corpus delicti* was duly proven because the integrity and evidentiary value of the illegal drugs were preserved.

The CA, however, modified the penalty imposed by the RTC and ordered Cayas to pay a fine of ₱500,000.00 for illegal sale and ₱300,000.00 for illegal possession, in addition to her prison sentence.

The Court's Ruling

After carefully examining the records of this case, we resolve to **ACQUIT** Cayas because the prosecution failed to prove her guilt beyond reasonable doubt.

At the onset of any criminal proceeding, a constitutional presumption exists for the accused arising from the fact that he is charged with the commission of a crime, *i.e.*, *the accused is presumed innocent unless his guilt is proven beyond reasonable doubt*. This presumption exists without requiring the accused to do anything to trigger it other than be the subject of a criminal charge.

From the evidence on record, we note existing gaps in the prosecution's evidence that opens the room for doubt on whether there indeed had been a buy-bust operation where Cayas was caught red-handed selling prohibited drugs. In other words, we do not believe and so hold that the prosecution has not proven that a crime has been committed through proof beyond reasonable doubt – that the plastic sachets that were *admitted into evidence during the trial* were in fact the same *items seized from Cayas when she was arrested*.

To warrant a conviction for illegal sale or illegal possession of dangerous drugs, proof beyond reasonable doubt must be adduced in establishing the *corpus delicti* – the body of the crime whose core is the confiscated illicit drug.⁸ In meeting this quantum of proof, Section 21 of R.A. No. 9165 ensures that doubts concerning the identity of the drug are removed.

Section 21 of R.A. No. 9165 provides the procedure to be followed by the arresting officers for the seizure and custody of the illegal drugs, to *wit*:

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;

X X X X

The above provision is implemented by Section 21(a), Article II, of the Implementing Rules and Regulations of R.A. No. 9165 which reads:

⁸ *People v. Capuno*, G.R. No. 185715, January 19, 2011, 640 SCRA 233, 248.

X X X X

(a) The apprehending officer/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 noncompliance 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;

X X X X

The records utterly fail to show that the police officers who arrested Cayas complied with these proceedings despite their mandatory nature. Here, the apprehending officers failed to conduct a physical inventory and photograph of the confiscated item. All they did was to turn over the three (3) plastic sachets containing *shabu* to PO3 Genuino, who was not even part of the buy-bust team, at the police station. This procedural lapse is plainly evident from the testimony of PO2 Ronquillo:

Q: Now, what happened to the first sachet that Maritess Cayas gave to you?

A: I put it in my pocket, ma'am.

Q: What about these two sachets which were later found from the possession of accused Marites[s] Cayas? Who had custody of them?

A: It was in the custody of PO1 Allen Padilla together with the marked money.

Q: What happened next after she was handcuffed and two more sachets were recovered from her?

A: We proceeded to the police station together with the suspect Maritess Cayas.

Q: And at the police station, what happened?

A: We turned over all the evidence that we confiscated from Maritess Cayas to PO3 Genuino, ma'am.

Q: And what did PO3 Genuino do with the plastic sachets you gave him?

A: He put marking on the plastic sachets with MCC.

Q: What about the two sachets turned over by PO1 Padilla? What did PO3 Genuino do with these sachets, if you know?

A: He also put markings on the two plastic sachets, ma'am.

X X X X X X X X X X

Q: By the way, who were present when these markings were made by PO3 Genuino?

A: PO3 Genuino, PO1 Sernat, PO1 Padilla and myself.

Q: What about Maritess Cayas? Where was she at that time?

A: Together with Maritess Cayas, ma'am.⁹

Thus, other than the markings made by PO3 Genuino, no physical inventory was ever made, and no photograph of the seized items were taken under the circumstances required by R.A. No. 9165 and its implementing rules. We observe that while there was testimony with respect to the marking being done in the presence of Cayas, no mention whatsoever was made that any representative from the media and the Department of Justice, or any elected official had been present during this inventory, or that any of these people had been required to sign the copies of the inventory.

While recent jurisprudence has subscribed to the *provision* in the Implementing Rules and Regulations of (IRR) R.A. 9165 providing that non-compliance with the prescribed procedure is not fatal to the prosecution's case, we find it proper to define and set the parameters on when strict compliance can be excused.

As a rule, strict compliance with the prescribed procedure is required because of the illegal drug's unique characteristic that renders it indistinct, not readily identifiable, and easily open to tampering, alteration, or substitution either by accident or otherwise.¹⁰

The exception found in the IRR of R.A. 9165 comes into play when strict compliance with the proscribed procedures is not observed. This saving clause, however, applies only (1) where the prosecution recognized the procedural lapses, and thereafter explained the cited justifiable grounds, and (2) when the prosecution established that the integrity and evidentiary value of the evidence seized had been preserved. The prosecution, thus, loses the benefit of invoking the presumption of regularity and bears the burden of proving – **with moral certainty** – that the illegal drug presented in court is the same drug that was confiscated from the accused during his arrest.

⁹ TSN, May 27, 2004, pp. 26-30.

¹⁰ *People v. Sabdula*, G.R. No. 184758, April 21, 2014, 722 SCRA 90, 98.

Not to be forgotten in considering the exception is the legal reality that the required *corpus delicti* heavily relies on whether the identity and evidentiary value of the confiscated drug itself were shown to have been preserved.

In *Malillin v. People*, we explained the importance of the chain of custody of the confiscated drugs, as follows:

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 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.

While testimony about a perfect chain is not always the standard because it is almost always impossible to obtain, an unbroken chain of custody becomes indispensable and essential when the item of real evidence is not distinctive and is not readily identifiable, or when its condition at the time of testing or trial is critical, or when a witness has failed to observe its uniqueness. The same standard likewise obtains in case the evidence is susceptible to alteration, tampering, contamination and even substitution and exchange. In other words, the exhibits level of susceptibility to fungibility, alteration or tampering – without regard to whether the same is advertent or otherwise not – dictates the level of strictness in the application of the chain of custody rule.¹¹

In *People v. Kamad*, we recognized the following links that must be established to ensure the preservation of the identity and evidentiary value of the confiscated drug should there be no strict compliance with the procedure provided in Section 21, Article II of R.A. 9165: *first*, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; *second*, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; *third*, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and *fourth*, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.¹²

In the present case, the arresting officers failed to mark the plastic sachets confiscated from Cayas immediately after she was arrested. Worse, *the prosecution did not bother to offer any explanation for why the marking of the seized items was not made at the place of seizure.*

¹¹ G.R. No. 172953, April 30, 2008, 553 SCRA 619, 632-633.

¹² G.R. No. 174198, January 19, 2010, 610 SCRA 295, 307-308.

Although the physical inventory and photograph may be conducted at the nearest police station or office of the apprehending team in case of warrantless seizures, nothing prevents the apprehending team from immediately conducting the physical inventory and photograph of the items at the place where they were seized.¹³ Consistency with the chain of custody rule requires that the marking of the seized items – to truly ensure that the same items that enter the chain are eventually the same ones offered in evidence – should be done in the presence of the apprehended violator *immediately upon confiscation*.¹⁴ This step is crucial in the chain of custody rule as it ensures that – even if the seized drugs are transferred from one person to another in the hands of the police – the items confiscated at the place of arrest can easily be identified in court.

We note, on the matter of identifying the seized items, that the lower courts overlooked the glaring inconsistency between the testimonies of the arresting officers *vis-à-vis* the entries in the Request for Laboratory Examination and Chemistry Report No. D-504-03. In their testimonies, PO2 Ronquillo and PO1 Padilla said that they remember PO3 Genuino placing the markings “MC” and “MC-P” on the plastic sachet that was subject of the sale and those found on the person of Cayas, respectively. They stated that:

Pros. Rojo: Showing to you Mister Witness, this small plastic sachet with white crystalline substance inside marked as Exhibit “F-8.” Do you recognize this plastic sachet, Mr. Witness?

PO2 Ronquillo: Yes, ma’am.

Q: What is this, Mr. Witness?

A: That was what I [was] able to purchase [from] Maritess Cayas.

Q: How do you know this is the same plastic sachet?

A: It has a marking of “MC” stands for Maritess Cayas which the police investigator put the markings.

Q: [Were] you present when the markings [were] made?

A: Yes, ma’am.

Q: I am showing to you two (2) more plastic sachet[s] previously marked Exhibit “F-4” and “F-5.” Do you recognize this plastic sachet containing white crystalline substance inside?

A: Yes, ma’am.

Q: What are these plastic sachets?

A: These were the two (2) plastic sachet[s] that I saw PO1 Padilla confiscate from the pocket of Marites[s] Cayas.

¹³ *People v. Beran*, G.R. No. 203028, January 15, 2014, 714 SCRA 165, 198, citing *People v. Sanchez*, G.R. No. 175832, October 15, 2008, 569 SCRA 194, 198.

¹⁴ *Id.*

Q: [...] How do you know these are the same plastic sachet[s]?

A: There are markings "MC."¹⁵

X X X X

Pros. Rojo: Mr. Witness, you said that after you handcuffed the suspect, you were able to recover marked money from her and two more plastic sachets containing *shabu*, what happened to these plastic sachets?

PO1 Padilla: After we placed the markings by our police investigator, we brought the plastic sachets to the crime laboratory for examination, ma'am.

Q: Who placed that markings on these plastic sachets?

A: It was PO3 Genuino, ma'am.

Q: Do you know the markings which was placed by PO3 Genuino?

A: Yes, ma'am.

Q: Were you present when PO3 Genuino place[d] the markings?

A: Yes, ma'am.

X X X X

Q: What were the markings placed on these two plastic sachets which you recovered from the subject?

A: As I can recall, ma'am, MCC-P.

Q: I am showing you these two plastic sachets previously marked as Exhibit F-4 and F-5, with submarkings, do you recognize these plastic sachets?

A: Yes, ma'am.

Q: And what are those plastic sachets?

A: These were the plastic sachets I was able to recover from the possession of Maritess Cayas, ma'am.

Q: How do you know that those are the plastic sachets you recovered?

A: Because I saw the police investigator place them with markings, ma'am.¹⁶

On the other hand, the Request for Laboratory Examination¹⁷ and Chemistry Report No. D-504-03¹⁸ show that the plastic sachet PO2

¹⁵ TSN, September 9, 2004, pp. 6-8.

¹⁶ TSN, May 22, 2008, pp. 16-18.

¹⁷ *Supra* note 6.

¹⁸ *Supra* note 7.

Ronquillo bought from Cayas had the markings “MC-BB 08 Oct 2003,” and the plastic sachets PO1 Padilla found in her pocket have the markings “MC-P-1” and “MC-P2.”

In addition, PO1 Padilla testified that he and his team brought the confiscated items to the crime laboratory. The Request for Laboratory Examination, however, shows that the items were delivered by PO1 Goquila.¹⁹

The testimonies of the arresting officers are the only testimonial evidence on record relating to the handling and marking of the seized items since the testimony of the forensic chemist has been dispensed with by agreement between the parties. Unfortunately, PO3 Genuino was also not presented as a witness and the arresting officers were not asked to explain the discrepancies in the markings.

To our mind, the procedural lapses in the handling and identification of the seized drugs, as well as the unexplained discrepancy in the marking, collectively raise doubts on whether the items presented in court were the exact same items that were taken from Cayas when she was arrested. These constitute major lapses that, standing unexplained, are fatal to the prosecution’s case.²⁰

The conditions set by Section 21(a), Article II of the IRR of R.A. No. 9165 were not met in the present case as the prosecution, in the first place, did not even recognize the procedural lapses the police committed in handling the confiscated items. Had the prosecution done so, it would not have glossed over the deficiencies and would have, at the very least, submitted an explanation and proof showing that the integrity and evidentiary value of the seized items had been preserved.²¹

All told, the identity and the evidentiary value of the three (3) plastic sachets containing *shabu* confiscated from Cayas were not substantially proven because her arresting officers failed to strictly comply with the procedure laid down in Section 21 of R.A. No. 9165, and the prosecution failed to prove the crucial links in the chain of custody rule.

Moreover, the prosecution and the lower courts cannot simply rely on the presumption that the arresting officers were in the regular performance of their duties in the light of Cayas’ right to be presumed innocent.²² The presumption of regularity in the performance of official functions cannot preponderate over the presumption of innocence that prevails if not overthrown by proof beyond reasonable doubt.²³ It must be remembered

¹⁹ Exhibit “D-2,” records, Vol. I, pp. 151.

²⁰ See *People v. Garcia*, G.R. No. 173480, February 25, 2009, 580 SCRA 259, 272-273.

²¹ Id.

²² See *People v. Santos*, G.R. No. 175593, October 17, 2007, 536 SCRA 489, 503, citing *People v. Ambrosio*, G.R. No. 135378, April 14, 2004, 427 SCRA 312, 318.

²³ *Malillin v. People*, *supra* note 11, at 623. See also *People v. Cañete*, G.R. No. 138400, July 11, 2002, 384 SCRA 411, 424; *People v. Ruiz*, G.R. Nos. 135679 & 137375, 367 SCRA 37; *People v.*

that the presumption of regularity is a mere statutory and rebuttable presumption created under Rule 131, Section 3(m) of the Rules of Court; to recognize it as sufficient to overturn the constitutional presumption of innocence would be an unconstitutional act.

Without the presumption of regularity, testimonies of the arresting officers must stand on their own merits and must sufficiently establish proof beyond reasonable doubt that the *corpus delicti* of the offenses of illegal sale and illegal possession of dangerous drugs exists.²⁴

The defense evidence must likewise be so regarded without being hobbled by the presumption of regularity. From the perspective of the defense, we cannot but note that the evidence for the defense is not strong as Cayas merely claimed that she was framed, and implied that the plastic sachets confiscated from her were planted. In this jurisdiction, the defense of denial and frame-up, like alibi, has been viewed with disfavor for it can be easily concocted and is a common defense ploy in drug cases.²⁵ These weaknesses, however, do not add any strength nor can they help the prosecution's case because the evidence for the prosecution must stand or fall on its own weight. In the first place, if the prosecution cannot establish Cayas' guilt beyond reasonable doubt, the need for her to adduce evidence on her behalf, in fact, never arises. Thus, we go back to the conclusion that Cayas should be acquitted for failure of the prosecution to prove her guilt beyond reasonable doubt.

WHEREFORE, in the light of all these premises, we **REVERSE** and **SET ASIDE** the July 16, 2012 decision of the Court of Appeals in CA-G.R. CR-H.C. No. 04295. Accused-appellant Maritess Cayas y Calitis @ "Tetet" is hereby **ACQUITTED** for failure of the prosecution to prove her guilt beyond reasonable doubt. She is ordered **IMMEDIATELY RELEASED** from detention unless she is otherwise legally confined for another cause.

Let a copy of this Decision be sent to the Superintendent, Correctional Institution for Women, Mandaluyong City, for immediate implementation. The Superintendent of the Correctional Institution for Women is directed to report to this Court the action he/she has taken within five (5) days from receipt of this Decision.

SO ORDERED.

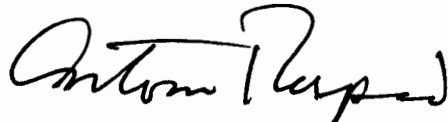

ARTURO D. BRION
Associate Justice

Tan, G.R. No. 133001, December 14, 2000, 348 SCRA 116; *People v. Dano*, G.R. No. 117690, September 1, 2000, 339 SCRA 515.

²⁴ *People v. Sanchez*, *supra* note 13, at 221. See also *Dissenting Opinion* of J. Brion in *People v. Agulay*, 588 Phil. 247, 293-294 (2008).

²⁵ *People v. Rom*, G.R. No. 198452, February 19, 2014, 717 SCRA 147, 170.

WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson



MARIANO C. DEL CASTILLO
Associate Justice

(On Official Leave)
JOSE CATRAL MENDOZA
Associate Justice



MARVIC M.V.F. LEONEN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Acting Chief Justice