



Republic of the Philippines

Supreme Court

Manila

CERTIFIED TRUE COPY
WILFREDO S. LACATA
Division Clerk of Court
Third Division

JUN 14 2016

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 211672

Present:

VELASCO, JR., J.,
Chairperson,
PERALTA,
PEREZ,
REYES, and
LEONEN,* JJ.

-versus-

JOHN HAPPY DOMINGO y
CARAG,
Accused-Appellant.

Promulgated:

June 1, 2016

x-----
Welfredo S. Lacata x

DECISION

PEREZ, J.:

We resolve the appeal of John Happy Domingo y Carag (accused-appellant) assailing the 21 November 2012 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-HC No. 03575. The CA Decision affirmed the ruling of the Regional Trial Court (RTC), Branch 5, Tuguegarao City, Cagayan finding the accused guilty of violating Section 5, Article II of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

The Case

On 27 August 2008, the RTC promulgated a Decision² finding accused-appellant guilty beyond reasonable doubt of violating Section 5,

* Additional Member per Raffle dated 18 May 2016.

¹ Rollo, pp. 2-14; Penned by Associate Justice Edwin D. Sorongon with Associate Justices Marlene Gonzales-Sison and Romeo F. Barza concurring.

² Records, pp. 159-165; Presided by Judge Jezarene C. Aquino.

Article II of R.A. No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002 and sentenced him to suffer the penalty of life imprisonment and to pay a fine of Five Hundred Thousand Pesos (₱500,000.00). The RTC ruled that the evidence presented by the prosecution successfully established the elements of illegal sale of a dangerous drug as accused-appellant was caught in *flagrante delicto* in a valid buy-bust operation. It noted that the defense of denial and frame-up offered by the defense cannot overturn the presumption of regularity in the performance of official duties accorded to the apprehending officers.

On intermediate appellate review, the CA upheld the RTC ruling. It found no reason to disturb the findings of the RTC as it is in accordance with law and jurisprudence and was based on the evidence presented and proven during trial. The appellate court likewise rejected the claim of accused-appellant that he was framed-up by the apprehending officers because his brother failed to repair the cell phone of the police asset. It agreed with the RTC that it is highly unbelievable that the buy-bust team would concoct such a serious charge against accused-appellant especially considering that it is the police asset, who is not even a member of the buy-bust team, that allegedly has an issue against the brother of accused-appellant. The CA also held that the apprehending officers complied with the proper procedure in the custody and disposition of the seized drug and that the identity of the confiscated drug has been duly preserved and its chain of custody has been properly established by the prosecution.³

Issue

Whether the lower courts gravely erred in finding the accused-appellant guilty for violation of Section 5, Article II of R.A. No. 9165.⁴

Our Ruling

We affirm the accused-appellant's conviction.

The elements of illegal sale of dangerous drugs



³ Rollo, p. 13; CA Decision.

⁴ CA rollo, p. 36; Appellant's Brief.

In the prosecution of a case of illegal sale of dangerous drugs, it is necessary that the prosecution is able to establish the following essential elements: (1) the identity of the buyer and the seller, the object of the sale and the consideration; and (2) the delivery of the thing sold and its payment. What is material is the proof that the transaction or sale actually took place, coupled with the presentation in court of the *corpus delicti* as evidence. The delivery of the illicit drug to the poseur-buyer and the receipt by the seller of the marked money successfully consummate the buy-bust transaction.⁵

In this case, all of these elements were clearly established. The prosecution's evidence positively identified Police Officer 1 Marcial Eclipse (PO1 Eclipse) as the buyer and accused-appellant as the seller of the *shabu*. The prosecution established through testimony and evidence the object of the sale, which is a heat-sealed transparent plastic sachet containing *shabu* and the two (2) marked Php100.00 bills, as the consideration thereof. Finally, the delivery of the *shabu* sold and its payment were clearly testified to by prosecution witness PO1 Eclipse.

Accused-appellant denied the accusation that he sold *shabu* to PO1 Eclipse and maintained that it was only in the police station that he first saw the sachet containing the white crystalline substance and the marked money allegedly taken from him. He claimed that the reason for his frame-up was the failure of his brother to repair the cell phone of the police civilian asset Boyet Relos.

Accused-appellant's defense which is anchored mainly on denial and frame-up cannot be given credence. It does not have more evidentiary weight than the positive assertions of the prosecution witnesses. His defense is unavailing considering that he was caught in *flagrante delicto* in a legitimate buy-bust operation. This Court has ruled that the defense of denial or frame-up, like alibi, has been invariably viewed by the courts with disfavor for it can just as easily be concocted and is a common and standard defense ploy in most prosecution for violation of the Dangerous Drugs Act.⁶ Moreover, we agree with the lower courts that the ill-motive imputed on the apprehending officers is unworthy of belief. Accused-appellant's defense that he was framed-up because his brother found it difficult to repair the cell phone of the police asset deserves scant consideration. When the police officers involved in the buy-bust operation have no motive to testify against the accused, the courts shall uphold the presumption that they performed

⁵ *People v. Midenilla*, 645 Phil 587, 601 (2010) citing *People v. Guiara*, 616 Phil. 290, 302 (2009) further citing *People v. Gonzales*, 430 Phil. 504, 513 (2002).

⁶ *People v. Hernandez*, 607 Phil. 617, 635 (2009).

their duties regularly.⁷ In fact, for as long as the identity of the accused and his participation in the commission of the crime has been duly established, motive is immaterial for conviction. As correctly noted by the appellate court, the person who allegedly had a grudge against the brother of the accused-appellant was not even a member of the buy-bust team. He was only a police informant. Moreover, accused-appellant was clearly identified by PO1 Eclipse as the person who sold to him for two hundred pesos a substance contained in a heat-sealed transparent plastic sachet which later on tested positive for methamphetamine hydrochloride or *shabu*.

Chain of Custody Rule


Accused-appellant also submits that the lower courts failed to consider the procedural flaws committed by the arresting officers in the seizure and custody of drugs as embodied in Section 21, paragraph 1, Article II, R.A. No. 9165.⁸ Accused-appellant alleged that the trial court failed to consider the admission of PO1 Eclipse that the alleged item taken from him was not photographed in the latter's presence and no inventory was made immediately after the alleged operation.

We are not persuaded. The procedure to be followed in the custody and handling of the seized dangerous drugs is outlined in Section 21(a), Article II of the Implementing Rules and Regulations of R.A. No. 9165, which states:

(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

⁷ *People v. Lim*, 607 Phil. 617, 635 (2009).

⁸ As amended by R.A. No. 10640, 15 July 2014. (1) The apprehending team having initial custody and control of the dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, immediately after seizure and confiscation, conduct a physical inventory of the seized items 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, with an elected public official and a representative of the National Prosecution Service or the media 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, finally*, That noncompliance of 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 and custody over said items.



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[.]** (Emphasis supplied)

The last part of the aforequoted provision stated the exception to the strict compliance with the requirements of Section 21 of R.A. No. 9165. Although ideally the prosecution should offer a perfect chain of custody in the handling of evidence, “substantial compliance with the legal requirements on the handling of the seized item” is sufficient.⁹ This Court has consistently ruled that even if the arresting officers failed to strictly comply with the requirements under Section 21 of R.A. No. 9165, such procedural lapse is not fatal and will not render the items seized inadmissible in evidence.¹⁰ What is of utmost importance is the preservation of the integrity and evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused.¹¹ In other words, to be admissible in evidence, the prosecution must be able to present through records or testimony, the whereabouts of the dangerous drugs from the time these were seized from the accused by the arresting officers; turned-over to the investigating officer; forwarded to the laboratory for determination of their composition; and up to the time these are offered in evidence. For as long as the chain of custody remains unbroken, as in this case, even though the procedural requirements provided for in Sec. 21 of R.A. No. 9165 were not faithfully observed, the guilt of the accused will not be affected.¹²

Contrary to the contention of accused-appellant, this Court finds no broken links in the chain of custody over the seized drug. Records reveal that after the arrest of the accused-appellant; the seizure of the suspected *shabu* and recovery of the marked money in the latter’s possession, PO1 Eclipse, with the assistance of the other members of the buy-bust team, brought accused-appellant to the police station.¹³

⁹ *People v. Cortez*, 611 Phil. 360, 381 (2009).

¹⁰ *People v. Almodiel*, G.R. No. 200951, 5 September 2012, 680 SCRA 306, 323; *People v. Campos*, 643 Phil. 668, 673 (2010) citing *People v. Concepcion*, 578 Phil. 957, 971 (2008).

¹¹ *People v. Magundayao*, 683 Phil. 295, 321 (2012); *People v. Le*, 636 Phil. 586, 598 (2010) citing *People v. De Leon*, 624 Phil. 786, 801 (2010) further citing *People v. Naquita*, 582 Phil. 422, 442 (2008); *People v. Concepcion*, 578 Phil. 957, 971 (2008).

¹² *People v. Manlangit*, 654 Phil. 427, 440-441 (2011) citing *People v. Rosialda*, 643 Phil. 712, 726 (2010) further citing *People v. Rivera*, 590 Phil. 894, 912-913 (2008).

¹³ TSN, 19 December 2006, p. 21.

Upon their arrival at the police station, PO1 Eclipse handed the marked money and the confiscated plastic sachet containing white crystalline substance to their investigator,¹⁴ PO3 Wilfredo Taguinod (PO3 Taguinod).¹⁵ PO3 Taguinod marked the plastic sachet containing white crystalline substance with words “WAT,” representing the initials of his name “Wilfredo A. Taguinod.”¹⁶ Thereafter, PO3 Taguinod turned over the confiscated plastic sachet and the marked money to the desk officer so that the incident and the confiscated items will be recorded in their blotter.¹⁷

PO3 Taguinod also prepared a letter-request¹⁸ addressed to the PNP Crime Laboratory in Tuguegarao City to have the contents of the plastic sachet examined for presence of illegal drugs.¹⁹ PO3 Taguinod then handed the said letter-request, together with the confiscated plastic sachet, to PO3 Rolando Domingo who brought the same to the PNP Crime Laboratory in Tuguegarao City. Said letter-request and the plastic sachet were received by PO1 Myrna B. Janson of the PNP Crime Laboratory in Tuguegarao City.²⁰

PSI Alfredo M. Quintero, Forensic Chemist of the PNP Crime Laboratory in Tuguegarao City, performed qualitative examination of the contents of the plastic sachet with the markings “WAT.”²¹ Said examination proved that the confiscated plastic sachet contained 0.07 gram of methamphetamine hydrochloride or *shabu* as evidenced by Chemistry Report No. D-073-2005.²²

It is clear from the foregoing that the substance marked, tested and offered in evidence was the same item seized from accused-appellant. We have previously ruled that as long as the state can show by record or testimony that the integrity of the evidence has not been compromised by accounting for the continuous whereabouts of the object evidence at least between the time it came into the possession of the police officers until it was tested in the laboratory, then the prosecution can maintain that it was able to prove the guilt of the accused beyond reasonable doubt.²³

¹⁴ Id. at 46.

¹⁵ TSN, 28 March 2007, p. 16.

¹⁶ Id. at 20.

¹⁷ Id. at 16.

¹⁸ Records, p. 10; Exhibit “A.”

¹⁹ TSN, 28 March 2007, pp. 22-23.

²⁰ Records, p. 10; Exhibit “A-3;” Id. at 24.

²¹ TSN, 19 July 2007, pp. 15-16.

²² Records, p. 7; Exhibit “B.”

²³ *Malilin v. People*, 576 Phil 576, 588 (2008) citing *Graham v. State*, 255 NE2d 652, 655.

The integrity of the evidence is presumed to have been preserved unless there is a showing of bad faith, ill will, or proof that the evidence has been tampered with. Accused-appellant bear the burden of showing that the evidence was tampered or meddled with in order to overcome the presumption of regularity in the handling of exhibits by public officers and the presumption that public officers properly discharged their duties.²⁴ Here, accused-appellant failed to convince the Court that there was ill motive on the part of the arresting officers. Thus, the testimony of PO1 Eclipse deserves full faith and credit. Accused-appellant did not even question the credibility of the apprehending officers. He simply insisted that the civilian informant had an ax to grind against his brother for the latter's failure to repair the cell phone. It is unbelievable that the apprehending officers would go to the extent of fabricating a story just to have a reason to arrest accused-appellant and get back at the latter's brother.

Imposable penalty

Section 5 of R.A. No. 9165 provides the penalty for the illegal sale of dangerous drugs, *viz.*:

Sect. 5 Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. – The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (₱500,000.00) to Ten Million Pesos (₱10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

We sustain the penalty imposed on accused-appellant as it is in conformity with the above-quoted provision of the law.

WHEREFORE, the Decision of the Court of Appeals in CA-G.R. CR-HC No. 03575 affirming the Regional Trial Court Decision finding the accused John Happy Domingo y Carag guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002,” sentencing him to suffer the penalty of life imprisonment and ordering him to pay a fine of Five Hundred Thousand Pesos (₱500,000.00) is hereby **AFFIRMED**.

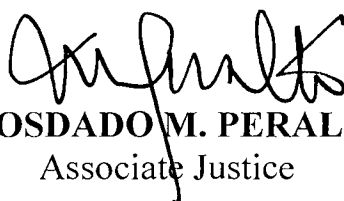
²⁴ *People v. Miranda*, 560 Phil. 795, 810 (2007).


SO ORDERED.


JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



DIOSDADO M. PERALTA
Associate Justice


BIENVENIDO L. REYES
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice


ATTESTATION

I attest 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.

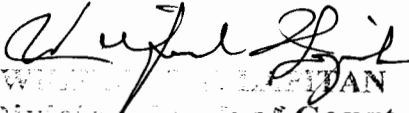

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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.



MARIA LOURDES P. A. SERENO
Chief Justice

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WENCESLAO E. LLANERA
Division Chairperson of Court
TF Division
JUN 14 2016

