

FIRST DIVISION

[G.R. No. 247974, July 13, 2020]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PETER LOPEZ Y CANLAS, ACCUSED-APPELLANT.

DECISION

CAGUIOA, J:

This is an appeal^[1] from the Decision^[2] dated March 29, 2019 (Assailed Decision) of the Court of Appeals (CA) in CA-G.R. CR-HC No. 09769, which affirmed the Judgment^[3] dated July 27, 2017 rendered by the Regional Trial Court (RTC), Fifth Judicial Region, Branch 34 of Iriga City, in Criminal Cases Nos. IR-10559 and IR-10614 titled "*People of the Philippines v. Peter Lopez y Canlas*" finding the accused-appellant Peter Lopez y Canlas (Lopez) guilty beyond reasonable doubt for violations of Sections 5 and 15, Article II of Republic Act (R.A.) No. 9165, otherwise known as *The Comprehensive Dangerous Drugs Act of 2002*.

Facts

Lopez was charged with the crimes of **illegal sale and use of dangerous drugs** defined under Sections 5 and 15, respectively, of Article II, R.A. No. 9165, under two separate *Informations* in Criminal Cases Nos. IR-10559 and IR-10614, the accusatory portions of which read:

Criminal Case No. IR-10559:

x x x x

That on or about March 30, 2014, in the evening at Barangay San Francisco, Iriga City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without any authority of law, did, then and there unlawfully and feloniously sell/deliver one (1) medium size (sic) heat sealed transparent plastic sachet containing methamphetamine hydrochloride or "shabu" weighing 0.193 gram, a dangerous drug, to PO1 Jonard B. Buenaflor who acted as poseur-buyer and who was with a police asset in a buy-bust operation with the use of four (4) pieces 500 peso bill with serial nos. TC170638, TJ333021, RG551486 and VG967118, to the damage and prejudice of the public interest.

ACTS CONTRARY TO LAW.^[4]

Criminal Case No. IR-10614:

x x x x

That in the evening of March 30, 2014, or prior thereto, at San Francisco, Iriga City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused did then and there, willfully, unlawfully and knowingly use methamphetamine hydrochloride or "shabu," as he was found positive for use of 'methamphetamine', a dangerous drug, after he was arrested after a buy-bust operation conducted against him by the members of the Philippine National Police assigned at the Intel Drug Enforcement of the Iriga City Police Station as his urine sample was submitted for laboratory examination per Chemistry Report No. DTC-081-2014 signed by Police Senior Inspector and Forensic Chemist Jun Fernandez Malong of the Camarines Sur Crime Laboratory Office, Naga City, to the damage and prejudice of the public interest.

ACTS CONTRARY TO LAW.^[5]

When arraigned, Lopez pleaded not guilty to both charges. Trial on the merits ensued.^[6]

Version of the Prosecution

As narrated in the Assailed Decision, the prosecution presented the following version of the facts:

On [March 20, 2014], the intelligence operatives of the Philippine National Police (PNP) Iriga City held a briefing in preparation for a buy-bust operation against [Lopez]. His identity was confirmed by a confidential asset. PO1 Jonard Buenaflor was designated to act as a poseur-buyer and tasked to use [PhP]2,000.00 as marked money consisting of four five hundred peso bills during the operation.

The police asset informed PO1 Buenaflor that [Lopez] would meet them in front of Trinidad Building, Tantiado Hardware at San Francisco, Iriga City. As they waited for [Lopez], the back-up operatives positioned themselves in the area. [Lopez] arrived on a motorcycle and proceeded to ask the informant how much they would be buying. PO1 Buenaflor then handed P2,000.00 to [Lopez]. In turn, the latter gave him a small heat-sealed transparent sachet containing crystalline substance which the poseur-buyer suspected as shabu.

PO1 Buenaflor performed the pre-arranged signal by removing his cap to indicate a positive buy-bust operation. He arrested [Lopez], while the back-up operatives rushed to the scene. Representatives from the Department of Justice (DOJ), the media, and a Barangay Councilor were also called to serve as witnesses to the body search, marking and photographing of seized items. When they arrived, PO1 Buenaflor marked the plastic sachet "JBB 22 3-30-14." Meanwhile, PO3 Ric Reginales [(PO3 Reginales)] searched the person of [Lopez] and recovered from him the following items: (1) buy-bust money, (2) cellphone, (3) lighter, (4) twenty-peso bill, and (5) coins.

Thereafter, the operatives headed to the police station with [Lopez]. The

Inventory/Confiscation Receipt was prepared by PO2 Joel Tabangan and signed by the DOJ representative Doris Viñas (Viñas), media representative Gloria Bongais (Bongais), and *Barangay Kagawad* Ramer Samantela (Samantela). On the other hand, PO2 Roger Tuyay drafted the requests for laboratory examination and drug test.

PO1 Buenaflor delivered the seized plastic sachet and [Lopez] to the provincial crime laboratory for examination. Based on the Chemistry Report No. D-109-2014 and Chemistry Report No. DTC-081-2014 prepared by the forensic chemist Police Senior Inspector (PSI) Jun Malong, the contents of the plastic sachet and [Lopez's] urine tested positive for methamphetamine hydrochloride, a dangerous drug.^[7]

Version of the Defense

The defense's version of the facts, as culled from the Assailed Decision, is as follows:

On [March 30, 2014], [Lopez] just came from a gas station where he met a certain Rico Murillo who gave him P2,000.00. He was instructed by the latter to give the same to a person who he knew went by the name Engineer Tubig. He then rode his motorcycle and went on his way only to be flagged down by PO1 Buenaflor upon reaching Tantiado Hardware. When he inquired what his violation was, the police officer told him to hold the money, but ordered him to stay put. In addition to that, PO1 Buenaflor collected the keys of his motorcycle. After some time, about five to six policemen arrived at the scene.

When Viñas and Bongais showed up, the police officers took photographs of [Lopez], whereas, the money he was holding was placed on the road. He was also frisked, but the police officers found nothing in his person. However, he saw one police officer in civilian clothes take a plastic sachet from his own pocket which he revealed to Viñas and Bongais.

After [Lopez's] arrest, he was taken to the police station where he was photographed with the plastic sachet and the money. Later, he was brought to the crime laboratory. He was provided with water to drink which tasted unpleasant. Nevertheless, he still drank it since the police officers needed his urine sample.^[8]

The Ruling of the RTC

In its Judgment, the RTC found Lopez guilty beyond reasonable doubt of the crimes charged. The RTC gave full credence to the testimony of the apprehending officers considering that their testimonies were corroborated on material matters by documentary proof.^[9]

The dispositive portion of the Judgment reads:

WHEREFORE, premises considered, judgment is hereby rendered:

1. In Criminal Case No. IR-10559 accused is found GUILTY BEYOND REASONABLE DOUBT of the crime of Violation of Section 5 Art. II of

Republic Act No. 9165 or the (sic) "The Comprehensive Dangerous Drugs Act of 2002" and accordingly sentencing him to suffer the penalty of life imprisonment and a fine of Php500,000.00.

2. In Criminal Case No. IR-10614 accused is found GUILTY BEYOND REASONABLE DOUBT of the crime of Violation of Section 15 Art. II of Republic Act No. 9165 or the (sic) "The Comprehensive Dangerous Drugs Act of 2002" and accordingly sentencing him to suffer the penalty of a minimum of six (6) months rehabilitation in a government center.

SO ORDERED.^[10]

From the Judgment, Lopez filed a Notice of Appeal dated August 23, 2017.^[11]

The Ruling of the CA

In the Assailed Decision, the CA affirmed the RTC's Judgment and sustained the conviction of Lopez. The dispositive portion of the Assailed Decision reads:

WHEREFORE, premises considered, the Judgment dated [July 27, 2017] rendered by the Regional Trial Court, Fifth Judicial Region, Branch 34, Iriga City in Criminal Case Nos. IR-10559 and IR-10164 is AFFIRMED.

SO ORDERED.^[12]

Responding to the arguments raised by Lopez in his appeal, the CA ruled that the prosecution need not have conducted surveillance prior to the buy-bust operation.^[13] Furthermore, the failure of the prosecution to present the informant in court was not fatal to its case.^[14]

In any case, the CA found that the prosecution successfully proved the identity and integrity of the *corpus delicti*^[15] since all links in the chain of custody were proven.^[16] The CA did not give due credence to the defenses of denial and frame-up as these were not substantiated by clear and convincing evidence.^[17]

From the Assailed Decision, Lopez filed his Notice of Appeal dated May2, 2019.^[18]

Issue

The issue for resolution before the Court is whether the CA erred in affirming the RTC's Judgment finding Lopez guilty beyond reasonable doubt for violations of Sections 5 and 15, Article II of R.A. No. 9165.

The Court's Ruling

After a careful review of the records, the Court partly grants the appeal.

Insofar as the charge for violation of illegal sale of dangerous drugs under Section 5, Article II of R.A. No. 9165 is concerned, the Court finds no compelling reason to deviate from the lower courts' findings that, indeed, the guilt of Lopez was

sufficiently proven by the prosecution beyond reasonable doubt.

However, with respect to the charge for violation of Section 15, Article II of R.A. No. 9165 on illegal use of dangerous drugs, the Court finds that the prosecution failed to prove the conduct of a confirmatory test subsequent to the screening test as required by law. Hence, to this charge, Lopez should be acquitted.

In so disposing, the Court considers, as is true in all appeals from conviction of crimes, any fact or circumstance in the accused-appellant's favor regardless of whether such fact or circumstance was raised as a defense or assigned as an error and despite the similar pronouncement of guilt by both the trial court and the appellate court. Every appeal of a criminal conviction opens the entire record to the reviewing court which should itself determine whether the findings adverse to the accused should be upheld or struck down in his favor.

The criminal liability of the accused-appellant under both charges are discussed separately.

I.

In Criminal Case No. IR-10559, Lopez stood charged, tried, and was found guilty by the lower courts of the crime of illegal sale of dangerous drugs defined and punished under the first paragraph of Section 5, Article II of R.A. No. 9165 which provides:

Section 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 (P500,000.00) to Ten million pesos (P10,000,000.00) 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. (Emphasis supplied)

In prosecuting this charge, the State bears the burden of proving the following elements: (1) the identity of the buyer, as well as the seller, the object and consideration of the sale; and (2) the delivery of the thing sold and the payment therefor.^[19] What is material is proof that the transaction or sale took place as a matter of fact, coupled with the presentation in court of the dangerous drug seized as evidence.

The commission of the offense of illegal sale of dangerous drugs requires the consummation of the illegal sale which is statutorily defined as "[a]ny act of giving away any dangerous drug and/or controlled precursor and essential chemical whether for money or any other consideration".^[20] In apprehensions pursuant to a buy-bust operation, delivery of the illegal drug to the poseur-buyer and the receipt by the seller of the marked money completes the illegal transaction.^[21] Stated otherwise, as long as the police officer went through the operation as a buyer and his offer was accepted by the accused-appellant who delivers the dangerous drugs to the former, the crime is consummated.^[22] Conviction follows as a matter of due