SECOND DIVISION

[G.R. No. 249990, July 08, 2020]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RANILO S. SUAREZ, ACCUSED-APPELLANT.

D E C I S I O N

PERLAS-BERNABE, J.:

Assailed in this ordinary appeal[1] is the Decision[2] dated February 13, 2019 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 01366-MIN, which affirmed the Decision[3] dated September 4, 2013 of the Regional Trial Court of Panabo City, Branch 4 (RTC) in Criminal Case No. 284-2008, finding accused-appellant Ranilo S. Suarez (accused-appellant) guilty beyond reasonable doubt of the crime of Illegal Sale of Dangerous Drugs, defined and penalized under Section 5, Article II of Republic Act No. (RA) 9165,[4] otherwise known as the "Comprehensive Dangerous Drugs Act of 2002."

The Facts

This case stemmed from an Information[5] filed before the RTC charging accused-appellant with Illegal Sale of Dangerous Drugs. It was alleged that in the afternoon of July 16, 2008, operatives of the Philippine Drug Enforcement Agency (PDEA) Regional Office, Davao City implemented a buy-bust operation in **Panabo City, Davao Del Norte**, against accused-appellant, during which, one (1) transparent plastic sachet containing white crystalline substance was recovered from him. The seized item was then placed inside a sealed evidence pouch. When the PDEA operatives noticed that people had started to gather around them, they, together with the accused-appellant, immediately left on board their service vehicle. On the way to their office, the PDEA operatives alighted the vehicle to conduct the marking of the seized item. Upon reaching the PDEA office, they turned over the seized item and the buy-bust money, and presented accused-appellant, to the duty desk officer. Since the witnesses for the inventory and photography were not available at that time, Investigating Officer 2 Hazel B. Ortoyo (IO2 Ortoyo) took custody of the seized item and put it inside her locker at the office, with only she having accessed thereto. The following day, IO2 Ortoyo brought the seized items to the **crime laboratory in Ecoland, Davao City (which is geographically located in Davao Del Sur)** where the inventory and photography took place in the presence of the representatives from the media and the Department of Justice (DOJ), an elected barangay official, and a photographer. Thereafter, the arresting officers brought accused-appellant and the seized item to the **Philippine National Police (PNP) Provincial Crime Laboratory in Tagum City, Davao Del Norte** where, after a qualitative examination, the seized item tested positive for 0.1524 gram of methamphetamine hydrochloride or *shabu*, a dangerous drug.[6]

For his part, accused-appellant denied the charge against him, claiming, instead that during that time, he was playing volley ball at the public plaza when two (2) persons approached him, introduced themselves as live-in partners, and inquired about his mother's house for rent. He then accompanied the couple to the said house. Upon reaching the house, accused-appellant noticed that the lady made a phone call, and all of a sudden, seven (7) persons arrived in the area. Immediately thereafter, accused-appellant was handcuffed, frisked, and asked where he kept the drugs. He claimed that the men found nothing from him. Subsequently, he was brought to the volleyball court, where the apprehending officers took and searched his bag, but also found nothing. He testified that he was brought to the crime laboratory, and that it was the first time he saw the alleged *shabu*.[7]

In a Decision[8] dated September 4, 2013, the RTC found accused-appellant guilty beyond reasonable doubt of the crime charged, and accordingly, sentenced him to suffer the penalty of life imprisonment, and to pay a fine in the amount of P500,000.00.[9] It ruled that the prosecution was able to sufficiently prove all the elements of Illegal Sale of Dangerous Drugs, and that the integrity of the *corpus delicti* was preserved. It gave credence to the clear and convincing testimonies of the prosecution witnesses, and hence, should prevail over the accused-appellant's uncorroborated and self-serving defenses of denial and frame-up.[10]

Aggrieved, accused-appellant appealed[11] to the CA.

In a Decision[12] dated February 13, 2019, the CA affirmed the RTC ruling. It ruled that the prosecution substantially complied with the statutory requirement for the admissibility of the seized item, as it found that the chain of custody was continuous, and that the identity, integrity, and evidentiary value of the seized item were preserved. It held that the fact that the marking was only made inside the vehicle does not automatically impair the evidentiary value of the seized item since to be able to create a first line in the chain of custody requirement, what is only required is that the marking be made in the presence of accused-appellant and upon immediate confiscation, as in this case. Moreover, it gave credence to the testimony of IO2 Ortoyo that she preserved the integrity of the seized item by keeping the same in her locker at the PDEA office, where she was the only one who had access, as well as to her explanation that the required witnesses were only available the following day. Finally, it did not give credence to accused-appellant's defenses of frame-up and alibi since he failed to adduce clear and convincing evidence to prove the same.[13] Hence, this instant appeal.

The Issue Before the Court

The issue for the Court's resolution is whether or not the CA correctly upheld accused-appellant's conviction for the crime charged.

The Court's Ruling

The appeal is meritorious.

In cases for Illegal Sale and/or Illegal Possession of Dangerous Drugs under RA 9165,[14] it is essential that the identity of the dangerous drug be established with

moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime.[15] Failing to prove the integrity of the *corpus delicti* renders the evidence for the State insufficient to prove the guilt of the accused beyond reasonable doubt, and hence, warrants an acquittal.[16]

To establish the identity of the dangerous drugs with moral certainty, the prosecution must be able to account for each link of the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime.[17] As part of the chain of custody procedure, the law requires, *inter alia*, that the marking, physical inventory, and photography of the seized items be conducted immediately after seizure and confiscation of the same. In this regard, case law recognizes that "marking upon immediate confiscation contemplates even marking at the nearest police station or office of the apprehending team."[18] Hence, the failure to immediately mark the confiscated items at the place of arrest neither renders them inadmissible in evidence nor impairs the integrity of the seized drugs, as the conduct of marking at the nearest police station or office of the apprehending team ts sufficient compliance with the rules on chain of custody.[19]

The law further requires that the said inventory and photography be done in the presence of the accused or the person from whom the items were seized, or his representative or counsel, as well as certain required witnesses, namely: (*a*) if **prior** to the amendment of RA 9165 by RA 10640, "a representative from the media *AND* the [DOJ], and any elected public official";[20] or (*b*) if **after** the amendment of RA 9165 by RA 10640, "[a]n elected public official and a representative of the National Prosecution Service *OR* the media."[21] The law requires the presence of these witnesses primarily "to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence."[22]

As a general rule, compliance with the chain of custody procedure is strictly enjoined as the same has been regarded "not merely as a procedural technicality but as a matter of substantive law."[23] This is because "[t]he law has been 'crafted by Congress as safety precautions to address potential police abuses, especially considering that the penalty imposed may be life imprisonment.'"[24]

Nonetheless, the Court has recognized that due to varying field conditions, strict compliance with the chain of custody procedure may not always be possible.[25] As such, the failure of the apprehending team to strictly comply with the same would not *ipso facto* render the seizure and custody over the items as void and invalid, provided that the prosecution satisfactorily proves that: (*a*) there is a justifiable ground for non compliance; and (*b*) the integrity and evidentiary value of the seized items were properly preserved.[26] The foregoing is based on the saving clause found in Section 21 (a),[27] Article II of the Implementing Rules and Regulations (IRR) of RA 9165, which was later adopted into the text of RA 10640.[28] It should, however, be emphasized that for the saving clause to apply, the prosecution must duly explain the reasons behind the procedural lapses,[29] and that the justifiable ground for non-compliance must be proven as a fact, because the Court cannot presume what these grounds are or that they even exist.[30]