

SECOND DIVISION

[G.R. No. 243390, October 05, 2020]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALEX
BALUYOT Y BIRANDA, ACCUSED-APPELLANT.**

DECISION

HERNANDO, J.:

On appeal is the October 5, 2017 Decision^[1] of the Court of Appeals (**CA**) in CA-G.R. CR-HC No. 07736, which denied accused-appellant Alex Baluyot y Biranda's (**Alex**) appeal from the August 27, 2015 Consolidated Decision^[2] of the Regional Trial Court, Branch 127, Caloocan City (**RTC**). The Consolidated Decision of the trial court found Alex guilty in Criminal Case No. 89534 for violation of Section 5, Article II of Republic Act No. (**RA**) 9165^[3] or the Comprehensive Dangerous Drugs Act of 2002.

The Antecedents

The facts, as alleged by the prosecution, are as follows:

On March 5, 2013, a confidential informant (**CI**) of the Philippine Drug Enforcement Agency (**PDEA**) informed the team of Intelligence Officer 1 Froilan Bitong (**IO1 Bitong**) about the drug activity of a certain Alex in Caloocan City.^[4] IO1 Bitong's team is based in Camp Olivas, Pampanga. The team was able to procure the necessary authority^[5] in order to conduct a buy-bust operation outside of its jurisdiction. Intelligence Officer 1 Ronnel Molina (**IO1 Molina**) was assigned as the poseur-buyer for the operation while Intelligence Officer 1 Regie Pinto (**IO1 Pinto**) was designated as the arresting officer.^[6] There were three to four other members of the team.^[7] Two five hundred peso (P500.00) bills were given to IO1 Molina to serve as buy-bust money.^[8] He then placed his initials, "REM," on the left portion of the bills.^[9] The team agreed that after the sale, IO1 Molina will ring up the cellphone of IO1 Pinto to signal that the latter may proceed to make the arrest.^[10]

The CI then called Alex to inform him that IO1 Molina is a possible buyer of *shabu*.^[11] The cellphone was passed to IO1 Molina and he asked if Alex had one thousand pesos worth of *shabu* on hand.^[12] Alex answered in the affirmative.^[13] Hence, the team proceeded to the target area in Caloocan City.

At around 9:00 p.m. of the same day, IO1 Molina and the CI walked to the house of Alex while the other team members proceeded to their positions.^[14] The CI introduced IO1 Molina to Alex as the buyer.^[15] Alex showed them only one plastic sachet of *shabu* and said that he only has five hundred pesos (P500.00), worth of

shabu.^[16] IO1 Molina said that one plastic sachet is enough.^[17] The sale took place. Alex handed the sachet to IO1 Molina.^[18] In turn, IO1 Molina gave the marked five-hundred peso bill to Alex as payment.^[19] Shortly thereafter, IO1 Molina called up the cellphone of IO1 Pinto, giving the signal for the arrest to proceed.^[20]

IO1 Pinto and the other team members rushed to the scene and arrested Alex.^[21] IO1 Pinto recovered the marked five-hundred peso (P500.00) bill from Alex and handed it to IO1 Molina.^[22] Another medium-sized plastic sachet containing two smaller plastic sachets of *shabu* was recovered from Alex's black sling bag.^[23] However, IO1 Pinto stated in his testimony that he was not able to see the contents of the black sling bag at the time of the operation until IO1 Molina subsequently opened it.^[24] IO1 Molina marked the plastic sachet subject of the illegal sale as "EXH A REM 3/5/2013," and the medium plastic sachet as "EXH B-2a REM 3/5/2013" when they were already in the PDEA National Headquarters in Quezon City, as they opted to leave the site because of the possible danger.^[25] He did not mark the two smaller plastic sachets inside the medium plastic sachet.^[26] He then executed an inventory receipt.^[27] He also prepared the requests for laboratory examination of the seized items and drug test on Alex, which were signed by IO1 Bitong.^[28]

Chemist Elaine Erno

(**Chemist Erno**) received the requests for laboratory examination and drug test, and the specimen of two plastic sachets.^[29]

Chemist Erno found that the specimens in the plastic sachets given to her are positive for the presence of methamphetamine hydrochloride.^[30] Also, the drug test that she conducted on Alex also yielded positive results as to the use of dangerous drugs.^[31]

On March 7, 2013, an information^[32] was filed against Alex for violation of Section 5, Article II of RA 9165 or Illegal Sale of Dangerous Drugs in the RTC of Caloocan City. It alleges:

That on or about the 5th day of March, 2013 in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there willfully, unlawfully and feloniously sell and deliver to IO1 RONNEL E. MOLINA, who posed as buyer, One (1) small heat-sealed transparent plastic sachet with markings "EXH A REM 03/5/2013" containing METHAMPHETAMINE HYDROCHLORIDE (*Shabu*) weighing 0.0372 gram which when subjected for laboratory examination gave POSITIVE result to the tests for Methamphetamine Hydrochloride, a dangerous drug, and knowing the same to be such.

Contrary to Law.^[33]

On the same date, a second Information^[34] was tiled against Alex for violation of Section 11, Article II of RA 9165 or Illegal Possession of Dangerous Drugs under

Criminal Case No. 89535 in the same RTC. It alleges:

That on or about the 5th day of March, 2013 in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there wilfully, unlawfully and feloniously have in his possession, custody and control Two (2) heat-sealed transparent plastic sachets each containing METHAMPHETAMINE HYDROCHLORIDE (Shabu) weighing 4.6000 grams & 3.3021 grams, which when subjected for laboratory examination gave POSITIVE result to the tests for Methamphetamine Hydrochloride, a dangerous drug, in gross violation of the above-cited law.

Contrary to Law.^[35]

On April 5, 2013, Alex was arraigned and he pleaded not guilty to both charges.^[36]
On August 1, 2013, pre-trial was held.^[37] Trial followed.

Alex presented the defense of denial. He testified that at around 8:30 p.m. of March 5, 2013, he was alone in his house in Bagong Silang, Caloocan City waiting for his two children to come home.^[38] Then, six PDEA officers came to his house to arrest him.^[39] They made Alex lie on the ground and then poked a gun at him.^[40] The PDEA officers asked him to identify himself and he said that his name is Alex Baluyot.^[41] They then brought him to the PDEA Office in Quezon City where he was subjected to a drug test and interrogation.^[42] The PDEA officers also showed him a plastic sachet allegedly containing the subject dangerous drug.^[43] Alex denied that he sold *shabu* to IO1 Molina.^[44] He claimed that the law enforcers lied on the witness stand about having bought illegal drugs from him.^[45] Despite this, Alex did not file charges against them because he did not have the means to do so.^[46]

Ruling of the Regional Trial Court

On August 27, 2015 the RTC rendered its Decision on the case.

In Criminal Case No. 89534, the RTC found Alex guilty of violation of Section 5, Article II of RA 9165 or Illegal Sale of Dangerous Drugs. He was sentenced to suffer the penalty of life imprisonment and to pay a fine of P500,000.00. The trial court ruled that the prosecution was able to establish beyond reasonable doubt the elements of Illegal Sale of Dangerous Drugs.^[47]

On the other hand, in Criminal Case No. 89535, the RTC found Alex not guilty of violation of Section 11, Article II of RA 9165 or Illegal Possession of Dangerous Drugs. The trial court ruled that the prosecution failed to establish with certainty the identity of the subject specimens.^[48]

The dispositive portion of the Consolidated Decision reads:

WHEREFORE, premises considered, judgment is hereby rendered as follows:

In **Criminal Case No. 89534**, the Court finds Accused ALEX BALUYOT y

BIRANDA guilty of the offense of [v]iolation of Section 5, Article II, RA 9165, and is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and to pay the Fine of Five Hundred Thousand Pesos (Php500,000.00).

In **Criminal Case No. 89535**, the Court finds Accused ALEX BALUYOT y BIRANDA not guilty of the offense of [v]iolation of Section 11, Article II, RA 9165 for failure of the prosecution to prove his guilt beyond reasonable doubt of the said offense.

The Jail Warden of Caloocan City is hereby directed to transfer the custody of the said accused to National Bilibid Prison, Bureau of Corrections, Muntinlupa City, for the service of his sentence in Criminal Case No. 89534, and for said Jail Warden to forthwith submit a written report of his compliance, or reason for non-compliance herewith.

The drugs subject matter of these cases are hereby ordered confiscated in favor of the government. In this regard, the Branch Clerk of Court of this Sala is hereby directed to turn over said specimen to the Philippine Drug Enforcement Agency (PDEA) for their immediate destruction in accordance with law.

SO ORDERED.^[49]

Alex elevated his case to the CA by filing a notice of appeal,^[50] in Criminal Case No. 89534 before the RTC.

Ruling of the Court of Appeals

On October 5, 2017, the CA rendered its assailed Decision denying the appeal and modifying the RTC ruling in Criminal Case No. 89534 to the extent that Alex shall be ineligible for parole.^[51]

The dispositive portion of the Decision reads:

WHEREFORE, premises considered, the appeal is **DENIED**. The assailed *Consolidated Decision* dated August 27, 2015 of the Regional Trial Court, Branch 127, Caloocan City, in Criminal Case No. 89534, is **MODIFIED** in that appellant Alex Baluyot y Biranda shall be **INELIGIBLE** for parole. Except as modified herein, the *Consolidated Decision* in Criminal Case No. 89534, **STANDS**.

SO ORDERED.^[52]

Aggrieved, Alex elevated his case before this Court.^[53] The parties opted not to file supplemental briefs with this Court and instead adopted their discussions in their briefs filed with the CA.^[54]

Alex contends that: (1) the identity of the allegedly seized plastic sachets of *shabu* was not established because the chain of custody rule was not followed by the PDEA officers when the subject drugs were not immediately marked after seizure, and

there were only two witnesses during the marking; (2) the RTC (and the CA) erred in giving credence to the inconsistent testimonies of the PDEA officers; and (3) the RTC (and the CA) erred in not giving credence to Alex's denial.^[55]

Conversely, the People, through the Office of the Solicitor General, maintains that: (1) the prosecution had sufficiently preserved the integrity of the seized illegal drugs and the chain of custody thereof; (2) the RTC (and the CA) correctly gave full faith and credence to the testimonies of the prosecution witnesses; (3) the elements of the crime charged were sufficiently established by the prosecution; and (4) the RTC (and the CA) correctly disregarded Alex's unsupported and self-serving defense of denial.^[56]

Issue

Whether or not Alex is guilty of Illegal Sale of Dangerous Drugs.

The Court's Ruling

There is merit in the appeal.

Alex was charged with and convicted of violation of Section 5, Article II of RA 9165, which reads:

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.

To successfully prosecute the offense of Sale of Illegal Drugs under Section 5, Article II of RA 9165, the following elements must be present: (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 the payment therefor.^[57] In a buy-bust operation, the receipt by the poseur-buyer of the dangerous drug and the corresponding receipt by the seller of the marked money consummate the illegal sale of dangerous drugs.^[58] What matters is the proof that the sale actually took place, coupled with the presentation in court of the prohibited drug, the *corpus delicti*, as evidence.^[59]

In this case, the testimonies of the witnesses, and the pieces of documentary and object evidence presented in the trial established the consummation of the sale. These showed that Alex indeed delivered *shabu* to IO1 Molina, who in turn gave a marked P500 bill as payment. The confiscated item was also presented during the trial to prove the *corpus delicti* of the crime.

Alex also did not allege and show that the PDEA officers who composed the buy-bust team were prompted by ill motives in conducting the operation. Hence, there was no