

SECOND DIVISION

[G.R. No. 233883, January 07, 2019]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARK VINCENT CORRAL Y BATALLA, ACCUSED-APPELLANT.

DECISION

PERLAS-BERNABE, J.:

Assailed in this ordinary appeal^[1] is the Decision^[2] dated April 21, 2017 of the Court of Appeals (CA) in CA-G.R. CR HC No. 08296, which affirmed the Judgment^[3] dated March 31, 2016 of the Regional Trial Court of Calamba City, Branch 37 (RTC) in Criminal Case Nos. 21304-2013-C, 21305-2013-C, and 21306-2013-C finding accused-appellant Mark Vincent Corral y Batalla (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 three (3) Informations^[5] filed before the RTC charging accused-appellant of the crimes of Illegal Sale of Dangerous Drugs and Illegal Possession of Drugs and of Drug Paraphernalia. The prosecution alleged that at around 6:30 p.m. of August 24, 2013, members of the Calamba City Police Station successfully conducted a buy-bust operation against accused-appellant, during which a small plastic sachet containing 0.03 gram of white crystalline substance^[6] was recovered from him. When accused-appellant was frisked after his arrest, SPO1 Lorenzo Colinares (SP01 Colinares) was able to seize another plastic sachet containing 0.18 gram of white crystalline substance^[7] from his possession. SPO1 Colinares likewise recovered a crumpled aluminum foil strip and a glass tooter on the table inside accused-appellant's house. ^[8] The police officers then took accused-appellant and the seized items to the barangay hall, where the marking, inventory, and photography were conducted in the presence of Barangay Captain Antonino P. Trinidad (Trinidad). ^[9] Thereafter, accused appellant and the seized items were brought to the police station, and eventually, said items were brought to the crime laboratory, which, after examination, tested positive for the presence of methamphetamine hydrochloride or *shabu*, a dangerous drug. ^[10]

For his part, accused-appellant claimed that at around six (6) o'clock in the evening of August 24, 2013, he was at home taking care of his children when, suddenly, police officers barged into his house and asked if he was Mark Vincent Batalla. When he answered in the affirmative, the police officers punched him on his side, searched the premises, took his wallet and cellular phone, brought him outside, and thereafter, ordered him to board a vehicle. Inside the vehicle, he was directed to tell the whereabouts of another person. When he failed to disclose such details, he was

detained at the police station.^[11]

In a Decision^[12] dated March 31, 2016, the RTC found accused appellant guilty beyond reasonable doubt of Illegal Sale of Dangerous Drugs, and accordingly, sentenced him to suffer the penalty of life imprisonment, and to pay a fine of P500,000.00.^[13] However, he was acquitted of Illegal Possession of Dangerous Drugs and of Drug

Paraphernalia for failure of the prosecution to prove his guilt beyond reasonable doubt. ^[14] As for his conviction, the RTC ruled that the prosecution was able to establish that accused-appellant was engaged in the sale of illegal drugs through a buy-bust operation, and that the integrity of the items seized, marked, identified, examined, and presented in evidence was preserved.^[15] Aggrieved, accused-appellant appealed ^[16] to the CA.

In a Decision^[17] dated April 21, 2017, the CA affirmed the RTC ruling. It agreed with the trial court's finding that there was substantial compliance with the chain of custody requirement since the inventory and photography of the seized items were witnessed by accused-appellant and a barangay official. It likewise gave credence to the testimonies of the police officers which have in their favor the presumption of regularity in the performance of their official duties, and hence, should prevail over accused-appellant's defenses of frame-up and denial.^[18] Dissatisfied, accused-appellant filed the 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,^[19] 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.^[20] 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.^[21]

To establish the identity of the dangerous drug 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.^[22] 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."^[23] 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 is sufficient compliance with the rules on chain of custody.^[24]

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,^[25] a representative from the media **and** the Department of Justice (DOJ), and any elected public official;^[26] or (b) if **after** the amendment of RA 9165 by RA 10640, an elected public official and a representative of the National Prosecution Service **or** the media.^[27] 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."^[28]

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."^[29] 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."^[30]

Nonetheless, the Court has recognized that due to varying field conditions, strict compliance with the chain of custody procedure may not always be possible.^[31] 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 are properly preserved.^[32] The foregoing is based on the saving clause found in Section 21 (a),^[33] Article II of the Implementing Rules and Regulations (IRR) of RA 9165, which was later adopted into the text of RA 10640.^[34] It should, however, be emphasized that for the saving clause to apply, the prosecution must duly explain the reasons behind the procedural lapses,^[35] 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.^[36]

Anent the witness requirement, non-compliance may be permitted if the prosecution proves that the apprehending officers exerted genuine and sufficient efforts to secure the presence of such witnesses, albeit they eventually failed to appear. While the earnestness of these efforts must be examined on a case-to-case basis, the overarching objective is for the Court to be convinced that the failure to comply was reasonable under the given circumstances.^[37] Thus, mere statements of unavailability, absent actual serious attempts to contact the required witnesses, are unacceptable as justified grounds for non-compliance.^[38] These considerations arise from the fact that police officers are ordinarily given sufficient time - beginning from the moment they have received the information about the activities of the accused until the time of his arrest - to prepare for a buy-bust operation and consequently, make the necessary arrangements beforehand, knowing fully well that they would have to strictly comply with the chain of custody rule.^[39]

Notably, the Court, in *People v. Miranda*,^[40] issued a definitive reminder to prosecutors when dealing with drugs cases. It implored that "[since] the [procedural] requirements are clearly set forth in the law, the State retains the positive duty to account for any lapses in the chain of custody of the drugs/items seized from the accused, regardless of whether or not the defense raises the same in the proceedings *a quo*; otherwise, it risks the possibility of having a conviction overturned on grounds that go into the evidence's integrity and evidentiary value, albeit the same are raised only for the first time on appeal, or even not raised, become apparent upon further review."^[41]

After the examination of the records, the Court finds that the prosecution failed to comply with the above-described procedure since the inventory and photography of the seized items were not conducted in the presence of the representatives from the media and DOJ. This lapse is made evident by the Receipt of Physical Inventory,^[42] which only confirms the presence of Trinidad (an elected public official), and further confirmed by the testimonies of the poseur-buyer, SPOI Colinares, and a back-up officer, P02 Renato Cuevas (P02 Cuevas), to wit:

SPO1 LORENZO COLINARES

[Atty. Beverly Anne Quintos]: At the Barangay Hall, you said you conducted Inventory, correct?

[SPOt Colinares]: Yes, ma'am.

Q: You conducted Inventory after you marked the specimen, correct?

A: Yes, ma'am.

Q: And according to the Inventory you made, you failed to indicate the markings of the said specimen?

A: Yes, ma'am. No markings.

Q: Despite testifying that you already marked the said specimen you did not indicate the markings on your inventory?

A: Yes, ma'am.

Q: You have all the time in the world in your police station to actually get the signature of the accused as well as the DOJ representative and the media representative but still you failed to do that, correct?

A: Yes, ma'am.

Q: You failed to comply with the provisions of Sec. 21, correct?

A: Yes, ma'am. There is no signature of the media representative and the DOJ representative but the Barangay Official there was^[43]

P02 RENATO CUEVAS

[Atty. Beverly Anne Quintos]: Would you agree with me that you made this inventory without the presence of a DOJ representative, the media representative, and the accused in this case?

[P02 Cuevas]: Yes, rna'am.