

SECOND DIVISION

[G.R. No. 240914, March 18, 2019]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V.
REYNALD[*] ESPEJO Y RIZALDO, ACCUSED-APPELLANT.**

D E C I S I O N

CAGUIOA, J:

This is an Appeal^[1] under Section 13(c), Rule 124 of the Rules of Court from the Decision^[2] dated February 21, 2018 of the Court of Appeals, Seventh Division (CA) in CA-G.R. CR-HC No. 08989, which affirmed the Consolidated Judgment^[3] dated December 7, 2016 rendered by the Regional Trial Court, Branch 31, San Pedro City, Laguna (RTC) in Criminal Case No. 14-9583-SPL and Criminal Case No. 14-9584-SPL, finding accused-appellant Reynald Espejo y Rizaldo (Espejo) guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of Republic Act No. (RA) 9165,^[4] otherwise known as the Comprehensive Dangerous Drugs Act of 2002, as amended.

The Facts

The two separate Informations^[5] filed against Espejo for violation of Sections 5 and 11, Article II of RA 9165 pertinently read:

[Criminal Case No. 14-9583-SPL (Illegal Sale of Dangerous Drugs)].

That on or about March 12, 2014, in the City of San Pedro, Province of Laguna, Philippines and within the jurisdiction of this Honorable Court[,] the above-named accused without any legal authority, did then and there willfully, unlawfully and feloniously sell, pass and deliver to SPO1 Victor P. Ver, a police poseur[-]buyer, one (1) small heat-sealed plastic sachet containing MET[H]AMPHETAMINE HYDROCHLORIDE or Shabu, a dangerous [drug], weighing zero point ten (0.10) gram.

CONTRARY TO LAW.^[6] (Emphasis and underscoring supplied)

[Criminal Case No. 14-9584-SPL (Illegal Possession of Dangerous Drugs)].

That on or about March 12, 2014, in the City of San Pedro, Province of Laguna, Philippines and within the jurisdiction of this Honorable Court[,] accused REYNALD ESPEJO y RIZALDO @ Bansot without any legal authority[,] did then and there willfully, unlawfully and feloniously have in his possession, control and custody Methamphetamine Hydrochloride (SHABU) [,] a dangerous drug, placed in four (4) heat sealed transparent plastic sachets, with a total weight of zero point forty (0.40) gram.

CONTRARY TO LAW.^[7] (Emphasis and underscoring supplied)

Upon arraignment, Espejo pleaded not guilty to both charges.^[8]

Version of the Prosecution

The version of the prosecution, as summarized by the CA, is as follows:

The witnesses for the prosecution were SPO1 Victor Ver, and SPO4 Edwin Goyena. The testimony of Forensic Chemist Donna Villa Huelgas was dispensed with upon stipulation of the parties. x x x

From the prosecution's evidence, it is gathered that on 12 March 2014, at around 9:45 in the morning, operatives from the Philippine National Police (PNP) stationed at the Provincial Intelligence Branch (PIB) of the Laguna Police Provincial Office in Sta. Cruz, Laguna, received a report from a "concerned citizen" that herein accused-appellant (Reynald Espejo a.k.a. "Bansot"), was engaged in illegal drug trade in the area of Laguerta Street, Barangay San Vicente, San Pedro, Laguna.

Initially, a trusted confidential agent was dispatched to verify the report; and when the report was confirmed, SPO1 Ver relayed the information to team leader SPO4 Edwin Goyena who, in turn, communicated with their superior, P/Supt Jerry V. Protacio. Thereafter, P/Supt Protacio formed a buy-bust team, consisting of SPO1 Ver and the informant as poseur-buyers, SPO4 Goyena as back-up security, and the rest of the team as perimeter security. Incidentally, the informant described accused-appellant as sporting a mustache and was [*sic*] wearing a grey t-shirt and black shorts on that day. A P500.00 buy-bust money was given to SPO1 Ver which he promptly marked with his initials, "VPV" at the right upper portion. The agreed pre-arranged move to signal that the transaction has been carried out was for SPO1 Ver to scratch his head. Lastly, as part of the standard operating procedure, the team prepared the Coordination and Pre-Operation Report and sent them to the Philippine Drug Enforcement Agency (PDEA).

Around 2:00 in the afternoon later that day, the team proceeded to the target area and saw accused-appellant standing by the doorstep of a house while conversing with another person. At a certain point, they saw accused-appellant hand over to that person a plastic sachet of suspected shabu. At about 2:15 in the afternoon, PO1 Ver and the informant alighted from the vehicle. They walked towards accused-appellant who came out of the house. Accused-appellant uttered "*Ilan tol?* " SPO1 Ver replied, "*Lima tol,* " (meaning, P500 worth of shabu). SPO1 Ver gave the buy-bust money to accused-appellant. Accused-appellant accepted the money, and then pulled from underneath the ceiling a coin purse from which he retrieved several plastic sachets of suspected shabu. Accused-appellant gave one (1) sachet to SPO1 Ver, and then placed the buy-bust money inside the purse along with the other sachets. At this juncture, SPO1 Ver scratched his head to signal the consummation of the transaction. SPO1 Ver held accused-appellant and introduced himself as a police officer, while the back-up team and the perimeter security rushed in. SPO1 Ver recovered the coin purse that contained four (4) other

plastic sachets with the P500.00 buy-bust money. At the place of transaction, SPO1 Ver immediately marked all the sachets seized. Thenceforth, they brought accused-appellant and the seized items to the police station, and thereupon, prepared the Request for Laboratory Examination and a Certificate of Inventory. Likewise, photographs of the accused-appellant and the seized items were taken in the presence [of] a representative from the media. After documentation, SPO1 Ver and SPO4 Goyena personally delivered the request and the substances to the PNP Crime Laboratory at Camp Vicente Lim, Calamba City. After chemical examination, the substances were confirmed positive for *methamphetamine hydrochloride*.^[9]

Version of the Defense

On the other hand, the defense presented Espejo as the sole witness and the defense's version, as summarized by the CA, is as follows:

In his defense, accused-appellant flatly denied the charges against him, and presented a different version of the incident, asserting that on 12 March 2014, around 9:00 in the morning, he was plying his tricycle along Barangay San Vicente, San Pedro, Laguna. As he was about to convey a passenger bound for Barangay Calendola, some police officers blocked his path and ordered him to go with them because he has a standing warrant of arrest. He yielded and went with them. While on their way to the police station, the police officers asked him about certain individuals named "Baby", "Pato", and "Buko" who, however, were not known to him. Upon arrival at the station, he was brought inside a room where he saw for the first time the illegal drugs placed on a table which he was being implicated of selling and possessing.^[10]

Ruling of the RTC

In the assailed Consolidated Judgment dated December 7, 2016, the RTC ruled that after a careful assessment of the evidence presented by the parties, it is convinced that the evidence adduced by the prosecution proves with moral certainty the presence of all the elements of the crime of Illegal Sale of Dangerous Drugs.^[11] Not only had the commission of the crime been proven, the integrity of the article sold and its chain of custody from the time it was delivered to the poseur-buyer, to the time it was brought to the police station, to its very delivery to the Philippine National Police (PNP) Crime Laboratory and finally, to its submission to the RTC, have also been proven with moral certainty.^[12] It further ruled that the defense of frame-up often imputed to police officers requires strong proof when offered as defense because of the presumption that public officers act in the regular performance of their official duties.^[13]

It likewise ruled that the crime of Illegal Possession of Dangerous Drugs was proven with moral certainty.^[14] Having been caught *in flagrante delicto* following a buy-bust operation, his subsequent arrest is valid.^[15] Considering the legality of the warrantless arrest during the buy-bust operation, the subsequent warrantless search resulting in the recovery of four more plastic sachets of *shabu* from Espejo's possession is valid and the seized *shabu* is admissible in evidence.^[16]

The dispositive portion of the Judgment reads:

WHEREFORE, a consolidated judgment is hereby rendered as follows:

1. In Criminal Case No. 14-9583-SPL, accused Reynald Espejo y Rizaldo is found GUILTY beyond reasonable doubt of violation of Section 5, Article II of Republic Act 9165 and he is hereby sentenced to suffer the penalty of life imprisonment and to pay a fine of Five Hundred Thousand (P500,000.00) Pesos without subsidiary imprisonment in case of insolvency.

The period of his preventive imprisonment should be given full credit.

2. In Criminal Case No. 14-9584-SPL, accused Reynald Espejo y Rizaldo is hereby found GUILTY beyond reasonable doubt of violation of Section 11, Article II of Republic Act 9165 and he is hereby sentenced to suffer imprisonment of twelve (12) years and one day as minimum to fourteen (14) years and eight months as maximum and to pay a fine of Three Hundred Thousand (P300,000.00) pesos without subsidiary imprisonment in case of insolvency.

The period of his preventive imprisonment should be given full credit.

x x x x

SO ORDERED.^[17]

Aggrieved, Espejo appealed to the CA.

Ruling of the CA

In the assailed Decision dated February 21, 2018, the CA affirmed Espejo's conviction. The dispositive portion of the Decision reads:

WHEREFORE, premises considered, the Decision dated 07 December 2016 of the Regional Trial Court, Branch 31, San Pedro City, Laguna, is **AFFIRMED**.

SO ORDERED.^[18]

The CA ruled that all the elements of Illegal Sale of Dangerous Drugs and Illegal Possession of Dangerous Drugs have been satisfactorily proven by the prosecution.

^[19] It further ruled that the absence of a Department of Justice (DOJ) Representative and Barangay Official during the inventory is of no consequence.^[20] In cases involving dangerous drugs, the mandatory procedure of Section 21 of RA 9165 and its Implementing Rules and Regulations (IRR) require only substantial compliance.^[21] The alleged discrepancies in the testimonies of SPO1 Victor Ver (SPO1 Ver) and SPO4 Edwin Goyena (SPO4 Goyena) as to who had actual custody of the drugs do not necessarily mean that their declarations are not credible and that their testimonies should be completely discarded as worthless.^[22] Neither is the failure to present the police investigator, PO2 Jonielyn Tanael and a certain SPO1

Reposar who supposedly received the drug substances at the crime laboratory a fatal factor against the prosecution, since it has the discretion on how to present its case and the right to choose whom it wishes to present as witnesses.^[23] As long as the unbroken chain of custody of the seized drugs was clearly established and the prosecution did not fail to identify properly the drugs seized, it is not indispensable that each and every person who came into possession of the drugs should take the witness stand.^[24]

Hence, the instant appeal.

Issue

Whether Espejo's guilt for violation of Sections 5 and 11 of RA 9165 was proven beyond reasonable doubt.

The Court's Ruling

The appeal is meritorious. The accused is accordingly acquitted. In cases involving dangerous drugs, the confiscated drug constitutes the *very corpus delicti* of the offense^[25] and the fact of its existence is vital to sustain a judgment of conviction.^[26] It is essential, therefore, that the identity and integrity of the seized drugs be established with moral certainty.^[27] Thus, in order to obviate any unnecessary doubt on their identity, the prosecution has to show an unbroken chain of custody over the same and account for each link in the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime.^[28]

In this regard, Section 21, Article II of RA 9165,^[29] the applicable law at the time of the commission of the alleged crime, outlines the procedure which the police officers must strictly follow to preserve the integrity of the confiscated drugs and/or paraphernalia used as evidence. The provision requires that: (1) the seized items be inventoried and photographed **immediately after seizure or confiscation**; (2) the physical inventory and photographing must be done **in the presence of (a) the accused or his/her representative or counsel, (b) an elected public official, (c) a representative from the media, and (d) a representative from the DOJ**, all of whom shall be required to sign the copies of the inventory and be given a copy of the same; and (3) the seized drugs must be turned over to a forensic laboratory within twenty-four (24) hours from confiscation for examination.^[30]

The phrase "immediately after seizure and confiscation" means that the physical inventory and photographing of the drugs were intended by the law to be made immediately after, or at the place of apprehension. It is only when the same is not practicable that the Implementing Rules and Regulations (IRR) of RA 9165 allows the inventory and photographing to be done as soon as the buy-bust team reaches the nearest police station or the nearest office of the apprehending officer/team.^[31] **In this connection, this also means that the three required witnesses should already be physically present at the time of the conduct of the inventory of the seized items which, again, must be immediately done at the place of seizure and confiscation — a requirement that can easily be complied with by the buy-bust team considering that the buy-bust operation is, by its nature, a planned activity.** Verily, a buy-bust team normally has sufficient time to gather and bring with them the said witnesses.