

FIRST DIVISION

[G.R. No. 225744, March 06, 2019]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
JONATHAN VISTRO Y BAYSIC, ACCUSED-APPELLANT.**

D E C I S I O N

DEL CASTILLO, J.:

Jonathan Vistro y Baysic (appellant) appeals the September 4, 2015 Decision^[1] of the Court of Appeals (CA) in CA-G.R CR-HC No. 06497, that affirmed his conviction for violation of Section 5, Article II of Republic Act (RA) No. 9165, otherwise known as the Comprehensive Drugs Act of 2002, by the Regional Trial Court (RTC) of San Carlos City, Pangasinan, Branch 57.

The Information against appellant contained the following accusatory allegations:

That on or about June 4, 2009 in the afternoon in Acosta St., Poblacion, Urbiztondo, Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused, in conspiracy with each other, did, then and there, willfully, unlawfully and felon[i]ously sell, trade, and deliver, one (1) heat sealed plastic sachet containing 0.01 gram of Methamphetamine Hydrochloride/Shabu, a dangerous drug to an agent of [the] Phil. Drug[s] Enforcement Agency (PDEA) acting as a [poseur]-buyer, without any license or authority to sell the same.

CONIRARY to Sec. 5. Art. II of R.A. 9165 (Comprehensive Dangerous Drugs Act of 2002).^[2]

During arraignment, appellant pleaded "not guilty". After the termination of the pre-trial conference, trial ensued.

Version of the Prosecution

On June 4, 2009, Philippine Drugs Enforcement Agency (PDEA) officers in Pangasinan formed a buy-bust team and planned an entrapment operation against appellant after verifying a report from a police asset that he was peddling shabu. Intelligence Officer Jaime Clave (IO Clave) was designated as poseur-buyer and given P500.00 as buy-bust money. IO Noreen Bautista (IO Bautista) was assigned as his immediate back-up while the other members of the buy-bust team were detailed as perimeter back-up.

Upon arrival of the buy-bust team at the target area, the police asset introduced IO Clave to appellant as a buyer of *shabu*. Appellant asked IO Clave how much he would like to purchase and the latter replied that he wanted to buy P500.00 worth of *shabu*. Appellant handed to IO Clave a sachet of *shabu* and the latter gave the

P500.00 marked money as payment. When IO Clave made the prearranged signal that the transaction was consummated, IO Bautista rushed to the scene of the crime and arrested appellant. Recovered from his possession was the P500.00 marked money. The buy-bust team withdrew from the area after discovering that the *barangay* captain of the place where the scene of the crime was located was the cousin of appellant's mother while the other *barangay* officials were also relatives of appellant.

While on their way to the PDEA office, IO Clave was in possession of the seized *shabu*. Upon arrival, he marked the same in the presence of appellant. IO Bautista prepared the Certificate of Inventory of the seized *shabu* and photographed the same in the presence of appellant. A *barangay* official from a different *barangay* signed as witness. IO Clave and IO Bautista proceeded to the police crime laboratory to deliver the sachet of *shabu* for examination. Police Senior Inspector Myrna C. Malojo (PSI Malojo) received the same and conducted tests that confirmed the contents of the sachet to be *shabu*.

Version of the Defense

Appellant denied the charges against him. He claimed that at the time of the incident, PDEA officers in civilian clothes went to their house looking for his parents, Reynaldo and Elma Vistro, for their alleged involvement in illegal drug activities. However, he informed them that his parents no longer lived in the house. The police officers then brought him downstairs where he saw the *barangay* captain, who was the cousin of his mother, being handcuffed for alleged possession of drug paraphernalia and a gun. The other PDEA officers interrogated his siblings and searched the house. Meanwhile, Teresita A. Baysic (Teresita), their laundry woman, was washing clothes at the back of the house. When the PDEA officers did not find any dangerous drug, they took him, his brother, the *barangay* captain and Teresita, to the PDEA office. His sibling was eventually sent home, but he and Teresita were charged with illegal sale of *shabu*. He did not know what happened to the *barangay* captain.

Ruling of the Regional Trial Court

In its Judgment^[3] dated November 14, 2013, the RTC found appellant guilty beyond reasonable doubt of violation of Section 5, Article II of R.A. 9165. It ruled that the prosecution evidence established the elements of the offense. The RTC gave credence to the testimony of the PDEA officers, who are presumed to have performed their duties in a regular manner in the absence of evidence that they were impelled by ill-feelings to testify falsely. The RTC ruled that the chain of custody of the seized *shabu* was unbroken since its integrity and evidentiary value had been properly preserved from the moment the buy-bust operation was consummated until its presentation during the trial. The RTC thus sentenced appellant to suffer the penalty of life imprisonment and to pay a fine of P500,000.00.

However, the RTC acquitted Teresita for insufficiency of evidence. It held that she was only doing the laundry when the PDEA officers arrived at appellant's residence. Thus, the dispositive portion of the Judgment reads:

WHEREFORE, finding accused JONATHAN VISTRO GUILTY beyond reasonable doubt for violating Sec. 5[,] Article II of R.A. 9165, he is hereby sentenced to suffer [the] penalty of life imprisonment and a fine of Five Hundred Thousand (Php500,000.00) pesos and to pay the cost of this suit. The Court however declares the acquittal of the other accused TERESITA BAYSIC Y ALMAZAN from the crime charged for reasons discussed above. Her immediate release from custody of the Bureau of Jail Management and Penology (BJMP), San Carlos City, Pangasinan is hereby ordered unless she is being held for some other lawful cause.

The items seized comprising of one (1) heat sealed plastic sachet is hereby ordered confiscated in favor of the government for destruction.

SO ORDERED.^[4]

Ruling of the Court of Appeals

In its Decision^[5] dated September 4, 2015, the CA affirmed the Judgment of the RTC. The CA was not persuaded by appellant's contention that he should be acquitted. It declared that non-compliance with Section 21, Article II of R.A. 9165 and Section 21(a) of its Implementing Rules and Regulations is not fatal to the prosecution's case since what is vital is the preservation of the integrity and evidentiary value of the seized *shabu*. It found that the testimonies of the PDEA officers established the crucial links in the chain of custody of the seized *shabu*.

Unfazed, appellant filed the instant appeal, seeking a reversal of his conviction based on the same arguments he raised in the CA.

Our Ruling

There is merit in the appeal.

Appellant argues that he should be exonerated since the prosecution failed to establish the chain of custody of the seized *shabu*. He contends that there was non-compliance by the arresting team of PDEA and police officers with the requirement in Section 21, Article II of R.A. 9165, which was the law applicable during the commission of the crime charged. Appellant specifically points out the failure by the PDEA arresting team and police officers to conduct a physical inventory and take photographs of the seized *shabu* in the presence of the witnesses mentioned in the law.

In a successful prosecution for violation of Section 5, Article II of R.A. 9165, the following elements must be proven beyond reasonable doubt: "(1) the identity of the buyer and the seller, the object and the consideration; and (2) the delivery of the thing sold and the payment. What is material is the proof that the transaction actually took place, coupled with the presentation before the court of the *corpus delicti*. The prosecution must also establish the integrity of the dangerous drug, being the *corpus delicti* of the case."^[6]

Section 21, Article II of R.A. 9165, which was the law applicable during the