

## SECOND DIVISION

[ G.R. No. 241950, April 10, 2019 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ARCADIO MALABANAN Y PERALTA AND NORMAN QUITA Y  
QUIBIDO, ACCUSED-APPELLANTS.**

### DECISION

**REYES, J. JR., J.:**

This is an appeal from the March 26, 2018 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08851, which affirmed the November 4, 2016 Judgment<sup>[2]</sup> of the Regional Trial Court, Calamba City, Branch 37 (RTC) in Criminal Case No. 22175-2014-C, finding accused-appellants Arcadio Malabanan y Peralta (Malabanan) and Norman Quita y Quibido (Quita) guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act (R.A.) No. 9165 or the Comprehensive Dangerous Drugs Act of 2002.

### The Facts

In an Information dated February 27, 2014, Malabanan and Quita, together with another co-accused Roque Heredia (Heredia), were charged with violation of Section 5, Article II of R.A. No. 9165. The accusatory portion of the information reads:

That on or about 12:30 a.m. of 25 February 2014[,], at Brgy. Pansol, Calamba City[,], and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating with one another[,], without authority of law, did then and there willfully, unlawfully and feloniously sell and deliver to a poseur-buyer a quantity of Methamphetamine Hydrochloride, otherwise known as "shabu," a dangerous drug, having a total weighing [sic] of 0.17 grams[,], in violation of the aforementioned law.

CONTRARY TO LAW.<sup>[3]</sup>

During their arraignment on May 8, 2014, accused-appellants and Heredia pleaded "Not Guilty."<sup>[4]</sup> Heredia died while the case before the RTC was on-going.<sup>[5]</sup>

### ***Evidence for the Prosecution***

On February 25, 2014, the Calamba City Police received a tip from a confidential informant (CI) that accused-appellants and Heredia were selling drugs at Heredia's house. Immediately, a buy-bust operation was planned in coordination with the Philippine Drug Enforcement Agency (PDEA). It was agreed that Police Officer 1 Alvin Santos (PO1 Santos) would act as the poseur-buyer and that he would call another member of the buy-bust team as the pre-arranged signal to effect the

arrest of the targets. PO1 Santos was also given two P500 bills as marked money.<sup>[6]</sup>

Once inside Heredia's home, the CI introduced PO1 Santos to Heredia and to accused-appellants. When the CI told the group that PO1 Santos wanted to buy *shabu*, Quita asked how much he wanted, to which the police operative replied that he would buy P1,000.00 worth of *shabu*. PO1 Santos then handed the marked money to Malabanan, who, in turn, gave the same to Heredia, who handed a plastic sachet to PO1 Santos.<sup>[7]</sup>

After receiving the plastic sachet, PO1 Santos performed the prearranged signal to the other members of the team. Seeing the other police officers approaching, he then introduced himself as a police officer and held Heredia. The other members of the buy-bust team arrested accused-appellants. PO1 Santos searched Heredia and recovered four plastic sachets. He marked all the seized plastic sachets in the presence of Heredia and accused-appellants.<sup>[8]</sup>

After the arrest, Heredia and accused-appellants were brought to the barangay hall, where police officers recorded the incident in the barangay blotter and conducted a physical inventory of the items recovered from the operation. Thereafter, police officers brought Heredia and accused-appellants to the police station. PO1 Santos prepared a police blotter and called the representatives from the media and the Department of Justice (DOJ), but only the representative from the latter arrived. Then, he made a request for examination and brought the specimens to the crime laboratory. The examination conducted resulted positive for *shabu*.<sup>[9]</sup>

### ***Evidence for the Defense***

On February 25, 2014, at around 12:30 P.M., Quita was at the house of a certain Tata Adeng at Maharlika, Brgy. Bagong Kalsada, Calamba City because the latter had asked help in cutting a banana tree. After cutting the said tree, he rested and fell asleep. Sometime later, a group of men wearing civilian clothes woke up Quita and hit his back with a firearm. He was then ordered to lay on the ground where he was frisked and tied with a rope. Later, Quita was boarded in a vehicle where he saw Heredia and Malabanan. Then, they were brought to the barangay hall of Brgy. Pansol, where their names were taken and were shown small plastic sachets. Subsequently, Heredia, Quita and Malabanan were brought to the police station, and then to the city hall.<sup>[10]</sup>

Meanwhile, on the same date, Malabanan was on his way to Laguna de Bay to go fishing when a van stopped in front of him at the Maharlika Subdivision. Two men alighted from the vehicle and held him while poking a gun at him. Malabanan was then brought to a hut ten meters away from where he was stopped. There, he was ordered to lie down and was interrogated where he hid the *shabu*. The two men stepped on Malabanan's back when he failed to give a satisfactory answer. He was then returned to the van and brought to the city hall.<sup>[11]</sup>

### ***The RTC Ruling***

In its November 4, 2016 Judgment, the RTC convicted accused-appellants for violating Section 5, Article II of R.A. No. 9165. The trial court ruled that all the elements for the crime of illegal sale of dangerous drugs are present. It noted that

PO1 Santos positively and clearly identified the individual participation of accused-appellants in the consummation of the illegal transaction. The RTC disregarded accused-appellants' defense of denial and frame-up for their failure to establish any ill motive against the prosecution witnesses. The trial court explained that in the absence of any evidence of ill will, credence is afforded to the testimony of police officers for they are presumed to have performed their duties in a regular manner.

The RTC upheld the integrity of the drugs seized from accused-appellants as the prosecution was able to establish the chain of custody over the seized items. The trial court noted that the prosecution was able to account for each link in the chain of custody, from the moment the alleged drugs were recovered from accused-appellants until its presentation in court. As such, the RTC explained that deviation from the procedure prescribed under Section 21 of R.A. No. 9165 was not fatal to the prosecution. The trial court expounded that so long as the evidentiary value of the seized items are preserved, non-compliance under justifiable grounds shall not render void and invalid the seizure of illegal drugs. The dispositive portion reads:

**IN VIEW OF THE FOREGOING**, the Court finds the accused, **ARCADIO MALABANAN y PERALTA & NORMAN QUITA y QUIBIDO GUILTY BEYOND REASONABLE DOUBT** of violation of Section 5, Article II of Republic Act 9165. The accused are hereby sentenced to suffer the penalty of **LIFE IMPRISONMENT and TO PAY A FINE OF FIVE HUNDRED THOUSAND (P500,000.00) PESOS**.

The Branch Clerk of Court is hereby ordered to turn-over the methamphetamine hydrochloride (shabu) subject of this case to PDEA for proper disposition and destruction.

**SO ORDERED.**<sup>[12]</sup>

Aggrieved, accused-appellants appealed before the CA.

### ***The CA Ruling***

In its assailed March 26, 2018 Decision, the CA upheld accused-appellants' conviction for violating Section 5, Article II of R.A. No. 9165. The appellate court posited that based on PO1 Santos' categorical and straightforward testimony, the prosecution sufficiently established the elements of the crime charged as well as the fact that a valid buy-bust operation was conducted. It explained that a buy-bust operation is a valid and effective mode of apprehending drug pushers, provided, it is carried out with due regard for constitutional and legal safeguards. Because accused-appellants were caught as a result of a legitimate buy-bust operation, the appellate court upheld the validity of their arrest and resulting search and seizure of illegal drugs.

On the other hand, the CA disregarded accused-appellants' contention that they should be acquitted on the ground that the police officers failed to comply with Section 2-6 of the 2014 Revised PNP Manual on Anti-Illegal Drugs Operations and Investigation regarding the marking of the evidence with the date, time and place where it was seized and found. The appellate court noted the same was not required under Section 21 of R.A. No. 9165 and that any violation of the said Manual is strictly between the police officer concerned and the Philippine National Police — it

being irrelevant to the prosecution of illegal sale of dangerous drugs. In addition, it noted that any deviation from the Manual committed by the police is inconsequential considering that the prosecution had adequately shown that the integrity and evidentiary value of the seized items were duly preserved.

As to the lack of a representative from the DOJ and the media, and an elected public official during inventory, the CA found the same immaterial because the integrity and evidentiary value of the seized drugs had been preserved. The appellate court reiterated that non-compliance with Section 21 of R.A. No. 9165 is not fatal so long as the integrity and evidentiary value of the seized items had been properly preserved by the apprehending officers. The CA agreed that the prosecution had sufficiently established an unbroken chain of custody beginning from the arresting officer to the forensic chemist for examination, and finally to its subsequent presentation in court during trial. It ruled:

**WHEREFORE**, premises considered, the instant appeal is **DENIED**.

Accordingly, the appealed **Judgment dated 04 November 2016** of the Regional Trial Court, Branch 37, Calamba City, in Criminal Case No. 22175-2014-C, finding both appellants Arcadio Malabanan y Peralta and Norman Quita y Quibido guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act No. 9165, is hereby **AFFIRMED in toto**.

**SO ORDERED.**<sup>[13]</sup>

Hence, this appeal, raising:

### **The Issue**

WHETHER ACCUSED-APPELLANTS ARE GUILTY BEYOND REASONABLE DOUBT OF VIOLATING SECTION 5, ARTICLE II OF R.A. NO. 9165

### **The Court's Ruling**

The appeal is meritorious.

In the prosecution of illegal sale of dangerous drugs under Section 5, Article II of R.A. No. 9165, the following elements must be proven with moral certainty: (a) the identity of the buyer and the seller, the object, and the consideration; and (b) the delivery of the thing sold and its payment.<sup>[14]</sup> The illegal narcotics are the *corpus delicti* of the offense of illegal sale of dangerous drugs such that it is primordial that the fact that the substance illegally possessed and sold in the first place is the same substance offered in court as exhibit and must be proven with the same degree of certitude necessary to sustain a guilty verdict.<sup>[15]</sup> Conviction is on shaky grounds if there is lingering doubt on the identity of the drugs in question.<sup>[16]</sup>

In *People v. Suan*,<sup>[17]</sup> the Court stressed the significance of removing any uncertainty as to the identity and integrity of the drugs presented in court:

**Sale or possession of a dangerous drug can never be proven without seizure and identification of the prohibited drug.** In *People*

*v. Magat*, we held that the existence of dangerous drugs is a condition *sine qua non* for conviction for the illegal sale and possession of dangerous drugs, it being the very *corpus delicti* of the crime. **In prosecutions involving narcotics, the narcotic substance itself constitutes the *corpus delicti* of the offense and the fact of its existence is vital to sustain a judgment of conviction beyond reasonable doubt.** Of paramount importance therefore in these cases is that the identity of the dangerous drug be likewise established beyond reasonable doubt.<sup>[18]</sup> (Emphases supplied; citations omitted)

The necessity of preserving and maintaining the integrity and identity of the items recovered from an accused in drug cases is brought about by the very essence and characteristics of illegal narcotics. Illegal drugs by its nature are not readily identifiable, and easily open to tampering, alteration, or substitution either by accident or otherwise.<sup>[19]</sup> Thus, it is imperative that the prosecution remove all doubts as to the identity and integrity of the drugs as any aspersions thereto, engenders a belief that what may have been presented in court were not the same drugs recovered from the accused, or worse, if drugs had been really seized from the suspect.

In order to alleviate fears that the identity and integrity of the drugs seized had been compromised, it is essential that the prosecution show an unbroken chain of custody over the same.<sup>[20]</sup> Particularly, there must be evidence establishing: (a) the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; (b) the turnover of the illegal drug seized by the apprehending officer to the investigating officer; (c) the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and (d) the turnover and submission of the marked illegal drugs seized from the forensic chemist to the court.<sup>[21]</sup>

Statutorily, the chain of custody rule is outlined in Section 21 of R.A. No. 9165, prescribing the procedure police operatives must observe in the conduct of drug-related operations. In particular, Section 21(1) reads:

SEC. 21. *Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment.* — The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

- (1) The apprehending team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be