

SECOND DIVISION

[G.R. No. 239787, June 19, 2019]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDWIN NIEVES Y ACUAVERA A.K.A. "ADING", ACCUSED-APPELLANT.

DECISION

CAGUIOA, J:

Before the Court is an ordinary appeal^[1] filed by accused-appellant Edwin Nieves y Acuavera (Nieves) assailing the Decision^[2] dated February 7, 2018 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 08983, which affirmed the Joint Decision^[3] dated June 17, 2016 of the Regional Trial Court of Iba, Zambales, Branch 70 (RTC) in Criminal Case Nos. RTC-7493-I and RTC-7494-I, finding Nieves guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. (RA) 9165,^[4] otherwise known as the *Comprehensive Dangerous Drugs Act of 2002*, as amended.

The Facts

Two Informations were filed against Nieves in this case, the accusatory portions of which read as follows:

CRIM. CASE NO, RTC-7493-I

That on or about 9th day of July 2013 at about 1:00 o'clock in the afternoon, in Brgy. Lipay, Dingin, Municipality of Iba, Province of Zambales, Philippines, and within the jurisdiction of this Honorable Court, the said accused, did then and there willfully, unlawfully and feloniously, sell Methylamphetamine Hydrochloride, a dangerous drug, placed in one (1) heat sealed transparent plastic sachet, containing 0.029 gram, which was subsequently marked as "RDA", without any lawful authority, permit nor prescription to sell the same from the appropriate agency.

CONTRARY TO LAW.^[5]

CRIM CASE NO. RTC-7494-I

That on or about 9th day of July 2013 at about 1:00 o'clock in the afternoon, in Brgy. Lipay, Dingin, Municipality of Iba, Province of Zambales, Philippines, and within the jurisdiction of this Honorable Court, the said accused, when apprehended by the police officers, was found to have willfully, unlawfully and feloniously, use or introduce into his body Methylamphetamine, a dangerous drug, without being unlawfully (sic) allowed to use said substance.^[6]

When arraigned, Nieves pleaded not guilty. Pre-trial and trial on the merits then ensued.

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

PO1 Rudico D. Angulo ("PO1 Angulo") of the Philippine National Police, Iba Municipality Station, testified that on 09 July 2013, their Office conducted a buy-bust operation for the arrest of Accused-Appellant, who was infamous for being a drug pusher in Barangay Lipay Dingin, Iba, Zambales. The operation was conducted at around 1:00 o'clock in the afternoon along the road near Accused-Appellant's residence. After the preparation of the Pre-Operation Report, Coordination Form, the Request for Conduct of Dusting Powder on the money, and the marked bill worth Five Hundred Pesos (Php500.00), PO1 Angulo, the designated poseur-buyer, along with the Confidential Informant ("CI") and four (4) deployed personnel, carried out the said operation.

Upon identification of the Accused-Appellant, the CI and PO1 Angulo approached him. CI introduced PO1 Angulo as the buyer of the drug after which the latter handed to Accused-Appellant the marked money bearing his initials "RDA." Having received payment, Accused-Appellant pocketed the same and in turn, handed to PO1 Angulo a small plastic sachet containing a white crystalline substance. PO1 Angulo proceeded to perform the pre-arranged signal which prompted the four (4) personnel, all of whom were waiting a few meters away from the operation, to cause the arrest of Accused-Appellant. Subsequent to the arrest, PO1 Angulo affixed his initials on the plastic sachet. Upon reaching the police station, an inventory of the confiscated items were (sic) done in the presence of PO2 Wilfredo F. Devera ("PO2 Devera"), one of the officers during the operation, Department of Justice ("DOJ") Representative Asst. State Prosecutor Olivia V. Non, and Elected Barangay Official Bgy. Kagawad Victor Buenaventura.

To corroborate on the fact of the buy-bust operation and the subsequent apprehension of Accused-Appellant, PO2 Devera narrates that on 09 July 2013, at 1:00 o'clock in the afternoon, a buy-bust operation was conducted, specifically targeting Accused-Appellant. As one of the designated back-up personnel, he was tasked to proceed to the target area, wait for the execution of the pre-arranged signal, search the suspect after the transaction is consummated, and thereby arrest him upon reading his Constitutional rights. During the said operation, he confirms having personally seen the transaction between the CI, PO1 Angulo, and Accused-Appellant. Upon the execution of PO1 Angulo of the prearranged signal, PO2 Devera, along with the other back-up personnel, effected the arrest and frisked the suspect, finding the marked Five Hundred Peso (Php500.00) bill, one (1) One Hundred Peso (Php100.00) bill, one (1) lighter and one (1) flashlight in his possession. Accused-Appellant was subsequently brought to the police station where the items taken from his person were inventoried.

Police Chief Inspector Vernon Rey Santiago ("PCI Santiago"), a forensic

chemist from the Zambales Provincial Crime Laboratory Office, affirms that their office had received a written request for drug test, for the application of dust powder on one (1) Five Hundred Peso (Php500.00) bill, for an ultraviolet test on the body of Accused-Appellant, and for a laboratory examination on a certain specimen weighing .029 [gram] contained in a heat-sealed transparent plastic sachet marked as "RDA." Aside from such written requests, the office likewise received the specimen and the marked bill itself. Anent the results, PCI Santiago attests that the results yielded positive for presence of ultraviolet fluorescent powder and that the specimen weighing .029 [gram] tested positive for MethamphetamineHydrochloride.^[7]

On the other hand, the version of the defense, similarly summarized by the CA, is as follows:

Accused-Appellant alleges that on 09 July 2013, at around 1 o'clock in the afternoon, he was alone at the backyard of his house sweeping. During that time, he saw certain police officers coming towards him shouting "*wag kang tumakbo Jun Jun Nieves!*" He continued sweeping, ignoring such warnings as they were referring to his brother, Jun Jun. When the officers were near him, Accused-Appellant was surprised when they removed his belt, tied both his hands, and dragged him towards their parked vehicle. He was brought to Camp Conrado Yap where he was mauled. Also present in the Camp was the police officers' asset, Armin Sarmiento. The latter questioned Accused-Appellant's arrest instead of his brother, who was the actual perpetrator of the crime charged. Upon realizing their mistake, the police officers returned to Accused-Appellant's house to look for Jun Jun, but failed to locate his whereabouts.

Accused-Appellant was subsequently brought to the Iba Police Station where the same officers forced him to admit that he was his brother.

Accused-Appellant's wife Sheila Lynn D. Nieves ("Shiela") affirms that on 09 July 2013, at around 9 o'clock in the morning, she awoke to find her husband cooking. After eating breakfast and while sending her newborn to sleep, she recalls Accused-Appellant stepping outside to sweep in the backyard. Upon hearing several police officers, and having been informed by their neighbor Daisy Milano, she went outside of the house and saw them stopping her husband from sweeping and making him kneel on the ground. They asked him to remove his belt which they used to tie his hands. Alarmed, she went to her husband's side and demanded a reason for such abuse. In response, one of them took out a cellphone from his pocket and said that they were looking for a certain Jun Jun Nieves, to which she responded, "*hindi naman po si Jun Nieves ang kinukuha ninyo eh, si Edwin Nieves po yan, kaya pakawalan po ninyo ang asawa ko.*" The officer replied, "*sumunod na lang po kayo sa amin, dun nalang kayo magpaliwanag.*" Shortly after Accused-Appellant and the police officers left, Shiela rushed to the house of her parents-in-law to apprise them of her husband's arrest. They went to the camp only to find out that Accused-Appellant was already brought to the police station for further questioning.^[8]

Ruling of the RTC

After trial on the merits, in its Joint Decision^[9] dated June 17, 2016, the RTC

convicted Nieves of the crime of Illegal Sale of Dangerous Drugs, but acquitted him of the case for Use of Dangerous Drugs. The dispositive portion of the said Decision reads:

WHEREFORE, judgment is hereby rendered, finding accused Edwin Nieves y Acuavera alias "Ading" **GUILTY** beyond reasonable doubt for violation of Section 5 of Article II of R.A. 9165, (selling of dangerous drugs) and is hereby sentenced to suffer the penalty of Life Imprisonment and to pay a fine of Five Hundred Thousand (Php500,000.00) pesos without subsidiary imprisonment in case of insolvency. Since accused has been in detention since July 9, 2013, his period of detention shall be credited in full.

FURTHER, Criminal Case No. RTC-7494-I is hereby DISMISSED since the accused is already convicted under Sec. 5 of Republic Act No. 9165.

FINALLY, the confiscated illegal drug subject matter of this case is forfeited in favor of the State and shall be disposed of accordingly.

SO ORDERED.^[10]

The RTC ruled that the prosecution proved that the chain of custody rule in drugs cases was followed by the police officers involved in this case. The RTC traced the chain of custody of the seized item from the place of apprehension to its transmission to court.^[11] It also excused the absence of the media representative in the conduct of the inventory. It reasoned:

The absence of the media representative during the inventory was explained by PO2 Devera. He stated that media practitioners executed a letter (Exhibit "Q") refraining from any participation in the conduct of inventory of drugs. Nonetheless, the absence of the media representative may be excused under the situation since the subject drug was already marked right at the place of the incident and the inventory was done in front of the accused, State Prosecutor Non-Finones, Kagawad Buenaventura and PO1 Angulo. x x x^[12]

Aggrieved, Nieves appealed to the CA.

Ruling of the CA

In the questioned Decision^[13] dated February 7, 2018, the CA affirmed the RTC's conviction of Nieves. The CA gave more credence to the testimony of the police officers that the buy-bust operation did happen. The CA viewed Nieves' defense as self-serving, and thus weak, especially as compared with the testimonies of prosecution witnesses. The CA likewise ruled that the chain of custody of the dangerous drugs was sufficiently proven to be unbroken. Thus:

Here, PO1 Angulo, as the poseur-buyer, testified that immediately upon confiscation of the plastic sachet containing *shabu*, he made the appropriate markings by placing his initials "RDA" on the same. Upon arrival at the police station, an inventory report was conducted in the presence of Accused-Appellant as well as a representative from the DOJ

and the Barangay. Subsequently, no less than PO1 Angulo himself turned over the marked sachet to the Zambales Provincial Crime Laboratory together with a written request for its examination. To fortify the establishment of the links in the chain of custody, PCI Santiago, the forensic chemist of the said crime laboratory was presented in court and testified as to the fact of examination. The prosecution likewise proffered into evidence the chemistry report on the substance found in the marked sachet, yielding a positive result to the test for the presence of *shabu*. Finally, the same sachet bearing the initials of PO1 Angulo was also presented; in court and was identified by PCI Santiago during his direct examination.^[14]

Hence, the instant appeal.

Issue

For resolution of this Court is the issue of whether the RTC and the CA erred in convicting Nieves.

The Court's Ruling

The appeal is meritorious.

Nieves was charged with the crime of illegal sale of dangerous drugs, defined and penalized under Section 5, Article II of RA 9165. In order to convict a person charged with the crime of illegal sale of dangerous drugs under Section 5, Article II of RA 9165, the prosecution is required to prove the following elements: (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 therefor.^[15]

It bears emphasis that in cases involving dangerous drugs, the State bears not only the burden of proving these elements, but also of proving the *corpus delicti* or the body of the crime.^[16] In drug cases, the dangerous drug itself is the very *corpus delicti* of the violation of the law.^[17] While it is true that a buy-bust operation is a legally effective and proven procedure, sanctioned by law, for apprehending drug peddlers and distributors,^[18] the law nevertheless also requires **strict** compliance with procedures laid down by it to ensure that rights are safeguarded.^[19]

In all drugs cases, therefore, compliance with the chain of custody rule is crucial in any prosecution that follows such operation. Chain of custody means the duly recorded authorized movements and custody of seized drugs or controlled chemicals from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction.^[20] The rule is imperative, as it is essential that the prohibited drug confiscated or recovered from the suspect is the very same substance offered in court as exhibit; and that the identity of said drug is established with the same unwavering exactitude as that required to make a finding of guilt.^[21]

In this connection, Section 21,^[22] Article II of RA 9165, the applicable law at the time of the commission of the alleged crime, lays down the procedure that police