

## **THIRD DIVISION**

**[ G.R. No. 233750, June 10, 2019 ]**

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMEL MARTIN Y PEÑA, ACCUSED-APPELLANT.**

### **DECISION**

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

This is an appeal<sup>[1]</sup> from the Decision<sup>[2]</sup> of the Court of Appeals (CA) in CA-GR. CR-HC No. 07385 promulgated on May 18, 2017, which affirmed the Decision<sup>[3]</sup> dated February 11, 2015 of the Regional Trial Court (RTC) of Tanauan City, Batangas, Branch 83, in Criminal Case No. CR-11-08-5719, finding accused-appellant Romel Martin y Peña (Martin) guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002. In Criminal Case No. 11-08-5719, Martin was sentenced to suffer the penalty of life imprisonment and to pay a fine of Five Hundred Thousand Pesos (P500,000.00).

### **The Facts**

In an Information<sup>[4]</sup> dated August 26, 2011, Martin was charged with violation of Section 5, Article II of R.A. No. 9165, the accusatory portion of which reads:

That on or about the 3<sup>rd</sup> day of August, 2011, at about 4:30 o'clock in the afternoon, at Barangay 2, Poblacion, City of Tanauan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without having been authorized by law, did then and there willfully, unlawfully and feloniously sell, deliver and give away one (1) small heat-sealed transparent plastic sachet with [marking] "HAS-1" containing methamphetamine hydrochloride, commonly known as "shabu," with an aggregate weight of 0.04 gram, a dangerous drug.

Contrary to law.<sup>[5]</sup>

### **Version of the Prosecution**

On August 3, 2011, the Tanauan Police received a call from an anonymous resident who reported about the rampant trading, buying and selling, and usage of prohibited drugs in the area. There was an alleged report about a pot session that was happening on Collantes Street, Barangay 2 in Tanauan City which is part of the vicinity where roving operations were being conducted.<sup>[6]</sup>

Police Officer 2 Mafriel Magpantay (PO2 Magpantay) and PO1 Harold Suriaga (PO1 Suriaga) were recalled from their current field posts to join the operations team as they were briefed by Police Senior Inspector John Ganit Rellian (PS/Insp. Rellian)

where they proceeded to their target operation.[7]

At about 4:30 p.m., when they reached the subject area, the police operative team, comprised of 10 personnel including PO2 Magpantay and PO1 Suriaga, alighted from the mobile patrol car, and started walking with caution to the inner alleys.[8]

When they reached the interior of the location, they saw an elevated nipa hut where Martin, Sheryl Pelago (Pelago) and Bernardo Malocloc (Malocloc) were standing. Upon seeing them, the entrapment team positioned themselves at a distance of 1 1/2 to 2 meters below the floor of the nipa hut. They were about 9 m away from the subject persons.[9]

From this vantage point, they witnessed the three who gave the impression of conducting an ongoing transaction where Martin handed over a plastic sachet containing *shabu* to Malocloc who received the plastic pack and for which the latter handed over bills which were eventually pocketed by the former.[10]

Upon seeing this, the police officers effected the arrest. Malocloc was apprehended from where one plastic sachet containing methamphetamine hydrochloride was marked with the initials "HAS-1." [11]

Martin and Pelago fled crossing the other house in front of the hut, with the entrapment team pursuing them. PS/Insp. Rellian commanded them to come out of their hiding for which they finally surrendered. PO1 Suriaga frisked Martin, yielding two more small, elongated plastic sachets with white crystalline content and six 100-peso bills which were eventually marked with "HAS-2" and "HAS-3." The money bills obtained from the body search were then marked with "HAS-5" to "HAS-10." [12]

Photographs of the marked items were taken and inventory was conducted by PO2 Magpantay in the presence of Barangay Captain Lourdes R. Ramirez (Ramirez) who thereafter signed the same. There were no representatives from the media and the Department of Justice (DOJ) during the inventory.[13]

After the inventory, Martin, Pelago and Malocloc were transferred to the Tanauan Police Station.[14]

PO2 Ana Violeta G. Jaime (PO2 Jaime) served as custodian of the confiscated items for purposes of processing and transmitting to the crime laboratory. It was PO3 Rowell M. Maala, another investigator along with PO2 Magpantay, who had arranged for the requests for the laboratory examinations of the marked confiscated items, as well as the tests for the prohibited drugs. These were, in turn, transmitted to the Philippine National Police (PNP) Regional Crime Laboratory Service Office 4, in Camp Vicente Lim, Calamba City, Laguna. The seized items were then received by the PNP Crime Laboratory at 12:30 a.m. on August 4, 2011.[15]

Forensic Chemist Police Chief Inspector Donna Villa Huelgas examined the said items and prepared Chemistry Report No. D-420-11, yielding positive results for methamphetamine hydrochloride, viz.:

Qualitative examination conducted on specimens A1, B1, C1 and D1 to D9 gave POSITIVE result from the tests for the presence of Methamphetamine hydrochloride, a dangerous drug.<sup>[16]</sup>

### **Version of the Defense**

Martin denied the accusations against him.

He alleged that he was in his residence on Collantes Street when Pelago arrived with her ill daughter, Rio Shane (Rio). After having lunch, he left to go to the market.<sup>[17]</sup>

On or about 3:30 p.m., Martin went home to sleep. Pelago and Rio were watching television when police officers arrived and arrested six persons including a certain August Punzalan who lived at the adjacent house of Martin's. When they saw Pelago by the window, police officers approached the neighboring house and asked for the whereabouts of Martin. Pelago replied that Martin was asleep and that she would wake him up.<sup>[18]</sup>

Pelago then woke up Martin who curiously asked her why police officers were looking for him. Martin opened the door and immediately saw two police officers in uniform.<sup>[19]</sup>

During trial, Martin testified that the two police officers he saw that day were not the same ones who testified against him, namely, PO1 Suriaga and PO2 Magpantay. According to Martin, the two unidentified police officers brought him to the terrace of the house and thereafter frisked him. He claimed that during the search, nothing illegal was taken from him and that Pelago and Rio were even ordered by the police officers to leave the house so the latter could search its interiors, which likewise yielded negative results.<sup>[20]</sup>

On February 11, 2015, the RTC rendered a Decision<sup>[21]</sup> finding Martin guilty beyond reasonable doubt for violation of Section 5, Article II of R.A. No. 9165. The RTC gave full credence to the testimonies of PO2 Magpantay and PO1 Suriaga who conducted the buy-bust operation against Martin and rejected Martin's defense of denial. The RTC reiterated the oft-stated rule that a defense of denial, which is unsupported and unsubstantiated by clear and convincing evidence, becomes negative and self-serving, deserving no weight in law and cannot be given evidentiary value over convincing, straightforward and probable testimony on affirmative matters.

The trial court, likewise, held that there was substantial compliance with the requirements set forth in Section 21 of R.A. No. 9165. Hence, it ruled that the integrity and evidentiary value of the dangerous drugs were preserved. The dispositive portion of the RTC decision reads:

WHEREFORE, in light of the foregoing, the court finds the accused, **ROMEL MARTIN y PE[Ñ]A, GUILTY** beyond reasonable doubt of the crime of **VIOLATION OF SECTION 5, ARTICLE II OF REPUBLIC ACT NO. 9165**, in Criminal Case No. 11-08-5719.

Hence, the accused is sentenced to LIFE IMPRISONMENT and to pay a FINE OF FIVE HUNDRED THOUSAND PESOS (Php500,000.00).

Further, let the shabu marked as Exhibit "J", with submarkings, subject of this case be immediately transmitted to the Philippine Drug Enforcement Agency (PDEA) for the latter's appropriate disposition.

No pronouncement as to the costs.

SO ORDERED.<sup>[22]</sup> (Emphases in the original)

Dissatisfied with the RTC 's ruling, Martin appealed to the CA, but in its Decision<sup>[23]</sup> on May 18, 2017, the CA affirmed the RTC's judgment of conviction. The CA held that the prosecution successfully discharged its burden of establishing the elements of Illegal Sale of Dangerous Drugs. It, likewise, held that while there may have been procedural lapses in handling the seized items, the same would not *ipso facto* result in the unlawful arrest of Martin nor render inadmissible in evidence the said items as long as the integrity and evidentiary value of the seized items are properly preserved and the chain of custody is established. The CA disposed as follows:

**WHEREFORE**, premises considered, the instant appeal is **DENIED**. The assailed Decision dated 11 February 2015 is hereby **AFFIRMED**.

**SO ORDERED.**<sup>[24]</sup> (Emphases in the original)

### **The Issue**

The pivotal issue to be resolved is whether or not the CA committed a reversible error in affirming Martin's conviction for violation of Section 5, Article II of R.A. No. 9165.

### **Ruling of the Court**

After a careful perusal of the records, the Court is convinced that there is merit to the appeal and deems it proper to acquit Martin for violation of Section 5, Article II of R.A. No. 9165.

At the outset, the Court draws attention to the unique nature of an appeal in a criminal case: the appeal throws the whole case open for review and it is the duty of the appellate court to correct, cite and appreciate errors in the appealed judgment whether they are assigned or unassigned.<sup>[25]</sup> Prevailing jurisprudence uniformly hold that the trial court's findings of fact, especially when affirmed by the CA, are, as a general rule, entitled to great weight and will not be disturbed on appeal.<sup>[26]</sup> However, this rule admits of exceptions and does not apply where facts of weight and substance, with direct and material bearing on the final outcome of the case, have been overlooked, misapprehended or misapplied.<sup>[27]</sup>

Here, Martin was charged with and convicted of the crime of illegal sale of dangerous drugs as defined and penalized under R.A. No. 9165, which demands the establishment of the following elements for a conviction: (1) the identity of the buyer and the seller; (2) the object of the sale and its consideration; and (3) the delivery of the thing sold and the payment therefor. What is important is that the sale transaction of drugs actually took place and that the object of the transaction is

properly presented as evidence in court and is shown to be the same drugs seized from the accused.<sup>[28]</sup>

To determine whether there was a valid buy-bust operation and whether proper procedures were undertaken by the police officers in the conduct thereof, it is incumbent upon the courts to make sure that the details of the operation are clearly and adequately established through relevant, material and competent evidence.

The prosecution, on the other hand, must prove with moral certainty the identity of the prohibited drug, considering that the dangerous drug itself forms part of the *corpus delicti* of the crime. The prosecution must show an unbroken chain of custody over the dangerous drugs so as to obviate any unnecessary doubts on the identity of the dangerous drugs on account of switching, "planting," or contamination of evidence. Accordingly, the prosecution must be able to account for each link in the chain of custody from the moment that the illegal drugs are seized up to their presentation in court as evidence of the crime.<sup>[29]</sup>

***The Rule on Chain of Custody was not observed; substantial gaps in the chain***

A perusal of the records shows that the prosecution witnesses had conflicting statements as to who had possession of the seized items after they were seized and marked - a crucial link in the chain of custody.

PO1 Suriaga testified that after affixing his initials on the plastic sachets which had *shabu* content, he was able to transfer possession to PO2 Magpantay. On the contrary, PO2 Magpantay never mentioned in his testimony or even in his Sworn Statement that after the arrest, there was an instance that he received from PO1 Suriaga the plastic sachets seized from Martin and Malocloc.

On direct examination, PO1 Suriaga testified as follows:

Pros. Torrecampo

Q: After he was arrested, what did he do?

PO1 Suriaga

A: We searched Romel Martin.

Q: Who conducted the search?

A: I myself, ma'am.

Q: What part of the body did you [search]?

A: His waistline and the shorts he was wearing at that time.

Q: What was he wearing on top?

A: T-shirt, ma'am.

Q: What was the result of the search?

A: I was able to confiscate two (2) plastic sachets.

Q: Where?

A: From his pocket.