

FIRST DIVISION

[G.R. No. 218803, July 10, 2019]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. JACK MUHAMMAD Y GUSTAHAM, A.K.A. "DANNY ANJAM Y GUSTAHAM," A.K.A. "KUYA DANNY," ACCUSED-APPELLANT.

DECISION

BERSAMIN, C.J.:

Accused-appellant Jack Muhammad y Gustaham (Danny), a.k.a. Danny Anjam y Gustaham and a.k.a. *Kuya Danny*, hereby seeks the review and reversal of the decision promulgated on March 16, 2015,^[1] whereby the Court of Appeals (CA) affirmed with modification the judgment rendered in Criminal Case No. 6016(22733), Criminal Case No. 6017(22734), and Criminal Case No. 6018(22735) by the Regional Trial Court (RTC), Branch 13, in Zamboanga City on October 28, 2011 finding him guilty beyond reasonable doubt of violating, respectively, Section 5, Section 11 and Section 12 of Republic Act No. 9165 (*Comprehensive Dangerous Drugs Act of 2002*).^[2]

The CA modified the judgment of the RTC only as to the penalty for the violation of Section 5 in Criminal Case No. 6016(22733) by adding that the accused-appellant would not be eligible for parole.

Antecedents

The accused-appellant was charged under separate informations the accusatory portions of which read:

Criminal Case No. 6016(22733)

That on or about August 2, 2006, in the City of Zamboanga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law to sell, deliver, transport, distribute or give away to another any dangerous drug, did then and there willfully, unlawfully and feloniously, delivered to PO3 APOLINARIO PANAMOGAN NARAGA, PNP, presently assigned with the Anti-Illegal Drugs Special Operations Task Force of the Intelligence Section, at Police Station 06, Tetuan, this city, who acted as poseur-buyer, one (1) piece heat-sealed transparent plastic sachet containing white crystalline substance weighing 0.0077 gram which when subjected to qualitative examination gave positive result to the test for the presence of methamphetamine hydrochloride (shabu), said accused knowing well that the same is a dangerous drug.^[3]

Criminal Case No. 6017(22734)

That on or about August 2, 2006, in the City of Zamboanga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law, did then and there [willfully,] unlawfully and feloniously, had in his possession and under his control, a cigarette foil wrapper with one (1) piece heat-sealed transparent plastic sachet containing white crystalline substance weighing 0.0115 grams which when subjected to qualitative examination gave positive result to the test for the presence of methamphetamine hydrochloride (shabu), knowing well that the same to be a dangerous drug.^[4]

Criminal Case No. 6018(22735)

That on or about August 2, 2006, in the City of Zamboanga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law, did then and there unlawfully and feloniously, possessed or had under his control, two (2) unused plastic sachets, two (2) pink and blue disposable lighters and three (3) unused folded aluminum foils, which are instrument or paraphernalia fit or intended for smoking, consuming or introducing dangerous drugs to the body in flagrant violation of the abovementioned law.^[5]

The accused-appellant pleaded *not guilty* to the informations.

Version of the Prosecution

At around 1:45 p.m. on August 2, 2006, PO3 Apolinario Naraga of Police Station 6 situated in Tetuan, Zamboanga City received information from a confidential informant about a certain Kuya Danny of Alvarez St., Talon-Talon, Zamboanga City being engaged in distributing illegal drugs. PO3 Naraga relayed the information to SPO3 Nelson Enad, his team leader, who forthwith decided to mount a buy-bust operation against the suspect. In the briefing, PO3 Naraga was assigned as the poseur-buyer, and he was given a marked P200.00 bill.

Upon arrival at the target area, the members of the police team spotted a male person seated at the stairway of the house. PO3 Naraga and the informant approached the person, and the informant said to him: *Kuya Danny, bili kami*. The latter asked: *Magkano?*, to which PO3 Naraga replied: P200. The suspect then demanded for the money, and PO3 Naraga handed over the marked P200 bill. The suspect entered the house, and returned after a few minutes and gave one heat-sealed plastic sachet to PO3 Naraga. After PO3 Naraga examined the contents of the sachet, he introduced himself as a policeman. Kuya Danny ran towards the area for drying fish, hotly pursued by PO3 Naraga and another member of the police team, PO3 Raz, until they caught up with him. They placed him under arrest. PO3 Raz apprised him of his constitutional rights, frisked him and confiscated from his side pockets another heat-sealed plastic sachet, two pieces of empty plastic sheets, three pieces of folded aluminum foil, and two lighters.^[6] The suspect turned out to be the accused-appellant.

The members of the buy-bust team later on brought the accused appellant from the fish drying area to Alvarez Street, where PO3 Naraga put his markings on the items confiscated from the accused-appellant. PO3 Naraga turned over the seized items to investigator PO2 Tuballa. The officers brought the accused-appellant to Police Station 6 where they recorded the arrest in the complaint assignment sheet. PO2 Tuballa filed the charges against the accused-appellant.^[7]

The plastic sachets seized from the accused-appellant were referred to the laboratory for qualitative examination. The sachets and their contents were found to be positive for the presence of methamphetamine hydrochloride, or *shabu*, a dangerous drug.^[8]

Version of the Accused

At around one o'clock in the afternoon of August 2, 2006, five male persons approached the accused-appellant while he was heading home from the *baluran*, the fish drying area situated on Alvarez Drive, Talon-Talon, in Zamboanga City. They asked if he knew a certain Jack Muhammad, but he replied to them in the negative. He soon overheard them commenting that they had erred about their target. They left, but one of them returned and pointed to him, saying: *This is the very one*. They ordered him to go with them. They brought him to the police station on board a tricycle.

The accused-appellant maintained his innocence before investigator PO2 Tuballa, but the latter simply advised him to file a waiver, and to just reveal his *boss* and to divulge the names of the drug addicts in his area. The police kept on asking him about Jack Muhammad, but he did not know such person.

Judgment of the RTC

On October 28, 2011, the RTC convicted the accused-appellant of the crimes charged, its judgment disposing thus:

WHEREFORE, in light of all the foregoing, this Court finds:

- (1) In Criminal Case No. 6016(22733), accused JACK MOHAMMAD y GUSTAHAM a.k.a. "DANNY ANJAM Y GUSTAHAM" and a.k.a. "KUYA DANNY" **GUILTY** beyond reasonable doubt for violating Section 5, Article II of the Comprehensive Dangerous Drugs Act of 2002 (R.A. 9165) and sentences him to suffer the penalty of LIFE IMPRISONMENT and pay a fine of FIVE HUNDRED THOUSAND PESOS (P500,000) without subsidiary imprisonment in case of insolvency;
- (2) In Criminal Case No. 6017(22734), accused JACK MOHAMMAD Y GUSTAHAM a.k.a. "DANNY ANJAM Y GUSTAHAM" and a.k.a. "KUYA DANNY" **GUILTY** beyond reasonable doubt for violating Section 11, Article II of the Comprehensive Dangerous Drugs Act of 2002 (R.A. 9165) and sentences him to suffer the penalty of 12 YEARS AND 1 DAY TO 14 YEARS OF IMPRISONMENT and pay a fine of THREE HUNDRED THOUSAND PESOS (P300,000) without subsidiary imprisonment in case of insolvency;
- (3) In Criminal Case No. 6018(22735), accused JACK MOHAMMAD Y GUSTAHAM a.k.a. "DANNY ANJAM Y GUSTAHAM" and a.k.a. "KUYA DANNY" **GUILTY** beyond reasonable doubt for violating Section 12, Article II of the Comprehensive Dangerous Drugs Act of 2002 (R.A. 9165) and sentences him to suffer the penalty of 6 MONTHS AND 1

DAY TO 1 YEAR AND 2 MONTHS OF IMPRISONMENT and pay a fine of TEN THOUSAND PESOS (P10,000) Without subsidiary imprisonment in case of insolvency.

SO ORDERED.^[9]

Decision of the CA

On appeal, the accused-appellant claimed that the police officers had committed serious lapses in the handling of the seized *shabu* and paraphernalia; that they had not coordinated with the Philippine Drug Enforcement Agency (PDEA) in violation of Section 86 of R.A. No. 9165; that they had not taken any physical inventory or photograph of the seized items in his presence and that of his counsel, or in the presence of a representative from the media and the Department of Justice (DOJ); that PO3 Naraga's testimony had lacked details about how the confiscated items had been handled after his arrest; and that no details had been provided on who had custody of the seized items, who had brought the seized items to the crime laboratory, and who had received the seized items at the crime laboratory.^[10]

On March 16, 2015, however, the CA promulgated the assailed decision affirming the convictions with modification, to wit:

WHEREFORE, premises considered, the appeal is DENIED. The Decision dated 28 October 2011 rendered by the Regional Trial Court of Zamboanga City, Branch 13, in *Crim. Case Nos. 6016(22733); 6017(22734); and 6018(22735)* is hereby AFFIRMED with MODIFICATION, in that with respect to the penalty for violation of Section 5, Article II of RA 9165, the accused-appellant shall not be eligible for parole.

SO ORDERED.^[11]

Issue

In this appeal, the accused-appellant urges that the CA erred in affirming his convictions.

Ruling of the Court

We reverse the CA.

In the prosecution under R.A. No. 9165 of the crimes of illegal sale^[12] and illegal possession^[13] of dangerous drugs like *shabu*, the contraband seized from the accused constitutes the *corpus delicti*. The Prosecution, in order to discharge its duty of establishing the guilt of the accused beyond reasonable doubt, must prove the *corpus delicti* by presenting the drug subject of the sale or possession no less.^[14] This is possible only by showing an unbroken chain of custody of the contraband from the moment of the seizure until its presentation as evidence in the trial court. Gaps in the chain of custody of the seized dangerous drugs necessarily raise doubts on the authenticity of the evidence presented in court. Accordingly, the integrity and identity of the seized drugs must be shown to have been duly preserved by the arresting officers through the unbroken chain of custody.

Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002, which implements R.A. No. 9165, defines chain of custody thusly: