

SECOND DIVISION

[G.R. No. 235468, July 01, 2019]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. DAN DUMANJUG Y LOREÑA, [*] ACCUSED-APPELLANT.

DECISION

CAGUIOA, J:

Before the Court is an ordinary appeal^[1] filed by the accused-appellant Dan Dumanjug y Loreña (Dumanjug), assailing the Decision^[2] dated September 8, 2017 (assailed Decision) of the Court of Appeals,^[3] Cagayan de Oro City (CA) in CA-G.R. CR-HC No. 01510-MIN, which affirmed the Omnibus Decision^[4] dated October 28, 2015 rendered by the Regional Trial Court of Butuan City, Branch 4 (RTC) in Criminal Case No. 14604 entitled *People of the Philippines v. Dan Dumanjug y Loreña*, finding Dumanjug guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. (RA) 9165,^[5] otherwise known as "The Comprehensive Dangerous Drugs Act of 2002," as amended.

The Facts and Antecedent Proceedings

As narrated by the CA in the assailed Decision and as culled from the records of the instant case, the facts and antecedent proceedings of the instant case are as follows:

On 22 December 2010, [Dumanjug] was charged with violation of Sections 5 and 15 of R.A. 9165 in Criminal Case Nos. 14604 and 14606. The Information^[6] charging [Dumanjug] of violation of Section 5 of R.A. 9165 reads as follows:

That at more or less 11:30 o'clock in the morning of December 7, 2010 at Butuan City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there willfully, unlawfully, and feloniously sell one (1) sachet of methamphetamine hydrochloride, otherwise known as shabu weighing of (*sic*) zero point one zero three nine (0.1039) gram, a dangerous drug to a poseur[-] buyer for a consideration of five hundred (P500.00) pesos.

CONTRARY TO LAW: (Violation of Section 5 in relation to Section 26, paragraph b, of Article II of R.A. 9165).^[7]

During the arraignment for both cases on 16 May 2011, [Dumanjug], then assisted by his counsel *de parte*, pleaded "not guilty" to the crimes charged.^[8]

After the pre-trial, a joint trial on the merits ensued.

Version of the Prosecution

On 6 December 2010, Agent Robin Beniga Tibayan (Agent Tibayan) of the [Philippine Drug Enforcement Agency (PDEA)] Regional Office 13, Libertad, Butuan City, received an information from a walk-in Confidential Informant (informant) that [Dumanjug] was selling *shabu* in Fort Poyohon, Butuan City. Agent Tibayan immediately informed OIC Regional Director Joel Plaza, who then instructed Agent Subang to verify the information received. On 7 December 2010, after the verification turned out positive, Agent Subang, as the Team Leader, formed a team and conducted a briefing for a buy-bust operation to be conducted against [Dumanjug]. Agent Tibayan was designated as the poseur-buyer and was handed with a P500.00 bill marked with "RT" while Agent Myrian A. Balbada (Agent Balbada) was designated as the arresting officer. Agent Tibayan and the informant then proceeded to Purok 5, Fort Poyohon while Agent Balbada and the rest of the buy-bust team followed in a separate unmarked vehicle.

When Agent Tibayan and the informant reached the boarding house of [Dumanjug], the latter told them to go upstairs. Upon reaching the second floor, [Dumanjug] asked the informant how much he was going to buy to which the informant replied, "Only P500.00 worth, boss." [Dumanjug] then went inside his room and when he came back he handed over one (1) small sachet of *shabu*. After checking that it was a genuine *shabu*, Agent Tibayan handed the marked P500-bill to [Dumanjug]. Agent Tibayan then made a "drop" call to Agent Balbada - the pre-arranged signal indicating that the transaction had been consummated. A few minutes thereafter, Agent Balbada and the backup team arrived at the scene. After introducing themselves as PDEA operatives and informing [Dumanjug] of his Constitutional rights and the reason for his arrest, [Dumanjug] was handcuffed. At the scene, Agent Tibayan marked the small sachet of *shabu* that was bought from [Dumanjug] as "RT-1." In [Dumanjug's] room, which was 3 to 5 meters away from the crime scene, the team saw in plain sight a weighing scale, eyeglass casing containing four (4) disposable lighters, empty sachets, aluminum foil and a Nokia cellular phone. No markings were made on the said items after Agent Subang assessed that the scene was quite dangerous.

[Dumanjug] was then taken to the PDEA Office where he was thoroughly searched. At the same time, the pieces of evidence were photographed, marked and inventoried in the presence of [Dumanjug], the barangay kagawad of Fort Poyohon and representatives from the media and the Department of Justice. A Request for Laboratory Examination on the *shabu* specimen and a Request for Drug Test for [Dumanjug] were also prepared by Agent Tibayan which were personally submitted by him to the PNP Crime Laboratory on that same day. The result of the said examination yielded positive for *methamphetamine hydrochloride*, which is commonly known as "*shabu*."

During trial, the prosecution and the defense stipulated as to the essential testimony of P/Supt. Noemi P. Austero, the forensic chemist, to wit:

1. That on [sic] P/Supt Noemi P. Austero, is a Licensed Chemical Engineer;
2. That she is an expert witness on illegal drug examination;
3. That sometime on December 7, 2010, their office, the Regional Crime Laboratory Office 13 received a Request for Laboratory examination from Agent Robin Tibayan of the PDEA, involving one (1) heat sealed transparent plastic sachet containing suspected shabu with marking RT1, already marked Exhibit C for the prosecution;
4. That, thereafter, FCO Austero conducted a laboratory examination on the specimen with marking RT1, which result was reduced into writing, as evidenced by Chemistry Report No. D-157-2010, copy of which is attached in page 11 of the Record in Crim. Case No. 14604, which was already marked as Exh. D for the prosecution;
5. That on the same occasion, P/Supt Austero received from Agent Tibayan of the PDEA, a Request for Drug Test, a copy of which was already marked as Exh. E for the prosecution.^[9]

When the prosecution was ordered to formally offer its evidence, the public prosecutor offered the following evidence: (1) Affidavit of Apprehension; (2) Certificate of Inventory; (3) Request for Laboratory Examination; (4) Chemistry Report No. D-157-2010; (5) Request for Drug Test; (6) Chemistry Report No. DT-186-2010; (7) Photocopy of marked money with Serial No. FL763971-P500; (8) Piece of Bondpaper with Pictures; (9) Specimen *Shabu*; (10) Photocopy of PDEA Blotter; (11) Pre-Operational Report; (12) Drug Paraphernalia and Nokia Cellphone; (13) Spot Report; and (14) Progress Report.^[10]

Version of the Defense

[Dumanjug] denied the charges against him. His version of the story is as follows:

[Dumanjug] was a former salesman at Butuan Goodyear Enterprises, Inc. (BGEI), the main office of Happy Enterprises. On 7 December 2010, at around 8 o'clock in the morning, [Dumanjug] reported for work at BGEI then later proceeded to Happy Enterprises to load stocks that were supposed to be delivered to Mangagoy. After loading the stocks, [Dumanjug] instructed the driver to drop him off at his boarding house at Fort Poyohon so he [could] prepare his things and finish the report he was going to submit at BGEI before going to Mangagoy. The driver of the truck was instructed by [Dumanjug] to go home.

While [Dumanjug] was doing his report in his room situated at the second level of his boarding house, he heard a noise downstairs. When he checked it out, he saw armed men, whose faces were covered with

bonnets, successfully wrecking the main door and going up the stairs towards his room. Once they reached [Dumanjug], they allegedly pointed their guns at him and instructed the latter to lie in prone position. While in that position, the masked armed men conducted a search inside the rooms in the boarding house, including [Dumanjug's] room. After the search, he was instructed to stand up and then he was handcuffed. [Dumanjug] was then interrogated as to the location of the *shabu* to which [Dumanjug] only replied that he kn[ew] nothing about any *shabu*. The men w[ere] about to bring him to the PDEA Office but since he was in his underwear, he requested them if he could put on a pair of pants. After which, the masked armed men also searched his pants for any illegal drugs but did not find any.

[Dumanjug] was brought to PDEA Office where he waited inside a room alone. When he was able to talk to a PDEA Agent, he pleaded the latter not to plant any evidence against him but when he was brought outside the room, [Dumanjug] alleged that a marked money was placed inside his pocket. [Dumanjug] did not see any civilians within the vicinity of the PDEA Office until he went outside the room that he came to know there was a barangay official, a media man and a DOJ representative.^[11]

The Ruling of the RTC

On October 28, 2015, the RTC rendered an Omnibus Decision finding Dumanjug guilty of the crimes charged against him. The decretal portion of the Omnibus Decision reads:

WHEREFORE, premises considered, in Criminal Case No. 14604 the Court finds accused Dan Dumanjug y Loreña guilty beyond reasonable doubt for violation of Section 5 of Article II of Republic Act 9165 (Comprehensive Dangerous Drugs Act of 2002) and hereby sentences him to undergo imprisonment of Life [I]mprisonment and to pay a fine of five hundred thousand (P500,000.00) pesos without subsidiary imprisonment in case of insolvency.

In Criminal Case No. 14606 for violation of Section 15, Article II of the said law, accused is hereby sentenced to undergo rehabilitation for a period of six (6) months at a government accredited rehabilitation center at the DOH Treatment and Rehabilitation Center located at Brgy. Anomar, Surigao City after service of his sentence in Criminal Case No. 14604.

The sachet of shabu is hereby ordered confiscated in favor of the government to be dealt with in accordance with law.

Accused shall be credited in the service of his sentence with his preventive imprisonment conformably with Article 29 of the Revised Penal Code, as amended.

SO ORDERED.^[12]

Dumanjug moved to reconsider^[13] the aforementioned Omnibus Decision of the RTC. However, Dumanjug's Motion for Reconsideration was denied in an Order^[14] dated December 4, 2015. Hence, Dumanjug filed a Notice of Appeal^[15] on his

conviction on Sale of Illegal Drugs (Criminal Case No. 14604) and sought the reversal thereof based on two issues, *i.e.*, (1) whether the testimonies of the prosecution witnesses were credible, and (2) whether the chain of custody was established.

The Ruling of the CA

In the assailed Decision, the CA affirmed the RTC's conviction of Dumanjug.

According to the CA, all the essential elements of the criminal offense of illegal sale of dangerous drugs under Section 5 of RA 9156 have been sufficiently established by the prosecution. The CA held that while "gaps were observed in the strict compliance in the 'chain of custody rule', x x x [i]n sum, the prosecution successfully established that [Dumanjug] was caught in *flagrante delicto* of selling the sachet of *shabu*, for which reason, his conviction must be sustained."^[16]

Hence, the instant appeal.

Issue

For the Court's resolution is the issue of whether the RTC and CA erred in convicting Dumanjug for violating Section 5, Article II of RA 9165.

The Court's Ruling

The appeal is meritorious. The Court acquits Dumanjug for failure of the prosecution to prove his guilt beyond reasonable doubt.

Dumanjug 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.^[17]

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. In drug cases, the dangerous drug itself is the very *corpus delicti* of the violation of the law.^[18] 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,^[19] the law nevertheless also requires **strict compliance** with procedures laid down by it to ensure that rights are safeguarded.

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]