

SECOND DIVISION

[G.R. No. 228884, August 19, 2019]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
QUIRINO BUMANGLAG Y SUMALPON, ACCUSED-APPELLANT.**

D E C I S I O N

LAZARO-JAVIER, J.:

The Case

This appeal seeks to reverse the Decision^[1] dated May 31, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 06757 affirming the conviction of appellant Quirino Bumanglag y Sumalpon for violation of Section 5 and Section 12, both of Art. II, Republic Act 9165 (RA 9165)^[2] and imposing on him the corresponding penalties.

The Proceedings Before The Trial Court

The Charge

Under twin Informations, appellant was charged with violation of Section 5 (illegal sale of dangerous drugs) and Section 12 (illegal possession of drug paraphernalia), both of Art. II, Republic Act 9165 (RA 9165), viz:

Criminal Case No. 14976-13

Illegal Possession of Drug Paraphernalia

That on or about 4:15 o'clock in the afternoon of November 9, 2011 in Barangay #2, (M)unicipality of San Nicolas, (P)rovince of Ilocos Norte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully, and knowingly have in his possession, control and custody one piece flask tube or improvised glass tooter and one lighter, which instruments, apparatus or paraphernalia are fit or intended for consuming or administering any dangerous drug into the body without any authority or license to do so from the appropriate government office or agency.

CONTRARY TO LAW.^[3]

Criminal Case No. 14977-13

Illegal Sale of Dangerous Drugs

That on or about 4:15 o'clock in the afternoon of November 9, 2011 in Barangay #2, (M)unicipality of San Nicolas, (P)rovince of Ilocos Norte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully, feloniously and knowingly sell one heat sealed transparent plastic sachet containing methamphetamine hydrochloride, commonly known as "shabu", a

dangerous drug, weighing 0.0208 gram, worth One Thousand Pesos (P1,000.00) to poseur buyer, PO1 Jhimelle^[4] dela Cruz, without the necessary license or authority from the appropriate government agency or authority to do so.

CONTRARY TO LAW.^[5]

The cases were raffled to the Regional Trial Court (RTC)-Branch 13, Laoag City.

On arraignment, appellant pleaded not guilty to both charges.^[6] Joint trial ensued.

During the trial, members of the Provincial Anti-Illegal Drugs Special Operations Task Group, Ilocos Norte PO1 Jhimelle Dela Cruz and PO2 Sygman Benigno, and Brgy. Chairman Reynaldo Domingo testified for the prosecution. On the other hand, appellant, Anne Buduan, and Renandez de los Santos testified for the defense.

Prosecution's Version

On November 9, 2011, around 2 o'clock in the afternoon, "Nicole," a long time informant of the Provincial Anti-Illegal Drugs Special Operations Task Group (PAIDSOTG) reported that a certain Quirino Bumanglag who turned out to be appellant, was selling shabu. Police Senior Inspector (P/S Insp.) Adriano Licudan asked "Nicole" to call appellant and set a transaction with him. Appellant agreed to sell shabu to "Nicole" at the plaza along Leaño Street, Brgy. 2, San Nicolas, Ilocos Norte at 4 o'clock that same afternoon.^[7]

P/S Insp. Licudan organized a buy-bust team. PO1 Jhimelle Dela Cruz got assigned as poseur buyer and PO2 Sygman Benigno, PO2 Christopher Pola, and PO2 Jefferson Sulmerin, as back up members. P/S Insp. Licudan gave PO1 Dela Cruz two P500.00 bills to be used as buy-bust money. PO1 Dela Cruz marked the bills with her initials and recorded it in the blotter. P/S Insp. Licudan also coordinated with the Philippine Drug Enforcement Agency (PDEA) and with San Nicolas Municipal Police Station.^[8]

At 3 o'clock in the afternoon, the team proceeded to San Nicolas Municipal Police Station to wait for appellant to communicate with "Nicole." Thirty minutes later, "Nicole" received a text message from appellant that he was on his way to their meeting place. Appellant asked "Nicole" to wait for him in front of the empanada stall at the plaza. P/S Insp. Licudan instructed PO1 Dela Cruz and "Nicole" to proceed to the meeting place while the rest of the buy-bust team positioned themselves in the plaza.^[9]

About thirty (30) minutes later, appellant arrived. "Nicole" asked what took him so long, to which appellant answered he had to walk because he had no money for his fare. Appellant then asked "Nicole" who her beautiful companion was. "Nicole" introduced PO1 Dela Cruz to appellant as the person who wanted to buy shabu. Appellant asked for the payment but "Nicole" demanded for the shabu first. Appellant took a plastic sachet with white crystalline substance from his pocket and handed it to PO1 Dela Cruz. The latter, in turn, gave the buy-bust money to appellant. After PO1 Dela Cruz slid the plastic sachet into her pocket, she scratched her head to signal the rest of the buy-bust team to close in and arrest appellant.^[10]

The other team members then closed in, introduced themselves as police officers, and arrested appellant. They asked appellant if he had authority to possess

dangerous drugs but he did not answer. PO1 Dela Cruz frisked him and recovered from him the following: buy-bust money, coin purse, glass tube, lighter, and cellphone. The team then returned to San Nicolas Municipal Police Station where PO1 Dela Cruz marked the seized items with "JD" and "QB." PO2 Benigno prepared an inventory in the presence of appellant and Barangay Chairman Reynaldo Domingo. PO2 Sulmerin took photographs during the marking and inventory. P/S Insp. Licudan requested for the laboratory examination of the seized plastic sachet and glass tube.
[11]

PO1 Dela Cruz and PO2 Benigno brought the seized plastic sachet, glass tube, and request for examination to the Ilocos Norte Provincial Crime Laboratory where they were received by SPO3 Diosdado Mamotos. The latter gave the specimens to the forensic chemist, Police Inspector (PI) Roanalaine Baligod.
[12]

Per Chemistry Report Number D-058-2011, PI Baligod examined the specimens and found the contents of the plastic sachet and glass tube positive for methamphetamine hydrochloride, a dangerous drug. PI Baligod submitted the specimens and her Report to the trial court which was received by its Clerk of Court Atty. Bernadette Espejo. The latter kept the specimens and Report in a locked drawer.
[13]

The prosecution offered the following in evidence: Pre-Operational Report,
[14] Coordination Form submitted to the PDEA,
[15] photocopy of the buy-bust money,
[16] Extract copies of the Police Blotter,
[17] Receipt of Property Seized,
[18] Request for Laboratory Examination,
[19] Chemistry Report,
[20] Booking and Information Sheet,
[21] Sketch of the place of arrest,
[22] photographs of the inventory,
[23] Joint Affidavit of PO1 Dela Cruz, PO2 Benigno, PO2 Pola, and PO2 Sulmerin.
[24]

Defense's Version

Prior to November 2011, he and "Nicole" already knew each other because she was his regular tricycle passenger. He and "Nicole" became good friends and would always exchange text messages. Because of this, the other tricycle drivers would tease them.
[25]

On November 9, 2011, around 2 o'clock in the afternoon, he was taking care of his daughter when he got a call from "Nicole" to meet her in Laoag City because she had something to tell him. He said he could not go to Laoag City. "Nicole" insisted they meet in San Nicolas, to which he agreed. By 3:30 in the afternoon, "Nicole" again called, saying she was already at their meeting place.
[26]

On his way to the meeting place, he saw Anne Buduan buying empanada. After a short conversation with her, he continued walking and waited for "Nicole" at their meeting point. From a distance, he saw "Nicole" and rang her up to tell her he was just behind her. "Nicole" readily spotted him. But instead of walking towards him, she scratched her head. Suddenly, two (2) police officers, who he came to know as PO2 Benigno and PO2 Pola, appeared. PO2 Benigno shouted "dapa!" Not knowing the order was directed to him, he merely moved to the side of the street. PO2 Benigno then held him by the neck and made him lie down on his stomach while PO2 Pola handcuffed him. He asked the police officers why they were accosting him but they told him not to talk. Two (2) other men named Kosa and Willie met with them and they all went together to the police station.
[27]

At the police station, he saw PO1 Dela Cruz for the first time. Kosa frisked him, took his cellphone and P10.00, and placed these items on top of the table. PO2 Benigno brought out a small checkered bag from his own pocket, took out its contents consisting of plastic sachet containing white crystalline substance, glass tube, and two (2) pieces of P500.00 bills, and also placed them on the table. Photographs were taken of him together with the items. Thereafter, the police officers called Barangay Chairman Reynaldo Domingo and asked the latter to sign a document. He asked Kosa and Willie why they were doing all these things. They answered he was a "palit ulo," a scheme where he was the one arrested in exchange for "Nicole" who was originally apprehended for illegal drug activities.^[28]

The Trial Court's Ruling

As borne in its Decision^[29] dated February 28, 2014, the trial court rendered a verdict of conviction, viz:

WHEREFORE, judgment is hereby rendered finding accused Quirino Bumanglag y Sumalpon GUILTY beyond reasonable doubt of the two charges and is therefore sentenced:

1. in Criminal Case No. 14976 for illegal possession of drug paraphernalia, to suffer the indeterminate penalty of imprisonment of SIX (6) MONTHS and ONE (1) DAY to TWO (2) YEARS and to pay a fine of P20,000.00; and

2. in Criminal Case No. 14977 for illegal sale of shabu, to suffer the penalty of life imprisonment and to pay a fine of P500,000.00; and

The contrabands subject hereof are confiscated, the same to be disposed as the law prescribes.

SO ORDERED.^[30]

The trial court gave full credence to the testimonies of the prosecution witnesses who were police officers performing their official functions. The trial court found the chain of custody to have been duly established and, thus, rejected appellant's denial and frame up.

The Proceedings Before The Court of Appeals

On appeal, appellant faulted the trial court when it overlooked the following alleged omissions of the buy-bust team: the marking of the seized items was not done immediately at the place of arrest and no inventory of the seized items was accomplished. Appellant also insisted that the trial court erred in giving credence to the prosecution witnesses in light of the fact that the confidential asset was not presented in court; it was incredible that PO1 Dela Cruz was assigned as poseur-buyer considering that she only joined the conduct of drug operations five (5) months prior; and Anne Buduan testified that she saw appellant merely walking when the police officers arrested him.

For its part, the People, through Assistant Solicitor General Hermes L. Ocampo and Associate Solicitor Rudy V. Ortea, countered, in the main: 1) there was a legitimate buy-bust operation despite the non-presentation of the confidential asset, 2) marking and inventory were done at the police station as it was the most practicable

under the circumstances, and 3) whether the document was called "Receipt of Property Seized" or "Certificate of Inventory" was of no moment because the same only referred to the pieces of evidence recovered from the accused.

The Court of Appeals' Ruling

By Decision dated May 31, 2016, the Court of Appeals affirmed. It found that there was substantial compliance with the chain of custody rule and the integrity of the seized drug was properly preserved. Thus, despite the failure to mark the items immediately upon confiscation, the chain of custody had remained intact. There was purportedly no doubt, therefore, that the seized dangerous drug was the same one submitted to the crime laboratory for testing and subsequently presented in court as evidence. It gave credence to the testimonies of the prosecution witnesses, who, as police officers were presumed to have regularly performed their official functions.

[31]

The Present Appeal

Appellant now seeks affirmative relief from the Court and pleads anew for his acquittal. In compliance with the Court's Resolution dated February 27, 2017, appellant filed his Supplemental Brief wherein he reiterates his arguments before the Court of Appeals. In addition, he claims the inventory was only witnessed by one (1) of the three (3) required witnesses. These procedural lapses create doubt on the authenticity of the *corpus delicti* and cannot prevail over the presumption of regularity in the performance of official functions.

[32]

On the other hand, the OSG manifested that in lieu of supplemental brief, it was adopting its briefs before the Court of Appeals.

[33]

The Core Issues

1) Was the chain of custody complied with? 2) Assuming in the negative, did the saving clause operate to cure the procedural infirmities, if any, pertaining to the integrity and evidentiary value of the seized drug?

The Ruling

We acquit.

Appellant was charged with violation of Section 5 (illegal sale of dangerous drugs) and Section 12 (illegal possession of drug paraphernalia), Art. II of RA 9165 allegedly committed on November 9, 2011. The applicable law is RA 9165 before its amendment in 2014.

In cases involving violations of RA 9165, the *corpus delicti* refers to the drug itself. It is, therefore, the duty of the prosecution to prove that the drugs seized from the accused were the same items presented in court.

[34]

Section 21 of RA 9165 lays down the procedure in handling the dangerous drugs starting from their seizure until they are finally presented as evidence in court. This makes up the chain of custody rule.

Section 21 of RA 9165 reads: