

FIRST DIVISION

[G.R. No. 238349, August 14, 2019]

VALMORE VALDEZ Y MENOR, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

DECISION

PERLAS-BERNABE, J.:

Before the Court is a petition for review on *certiorari*^[1] assailing the Decision^[2] dated October 30, 2017 and the Resolution^[3] dated March 16, 2018 of the Court of Appeals (CA) in CA-G.R. CR No. 39508, which affirmed the Decision^[4] dated January 17, 2017 of the Regional Trial Court of Caloocan City, Branch 127 (RTC) in Crim. Case No. C-93234, finding Valmore Valdez y Menor (petitioner) guilty beyond reasonable doubt of violating Section 11, Article II of Republic Act No. (RA) 9165,^[5] otherwise known as the "Comprehensive Dangerous Drugs Act of 2002."

The Facts

This case stemmed from an Information^[6] filed before the RTC accusing petitioner of the crime of Illegal Possession of Dangerous Drugs, defined and penalized under Section 11, Article II of RA 9165. The prosecution alleged that at around 7:20 in the morning of January 28, 2015, Jail Officer 2 Edgardo B. Lim (JO2 Lim) was conducting a head count of the inmates at the Caloocan City Jail when he noticed that petitioner, an inmate, was near the jail gate and acting suspiciously and exhibiting odd behavior while holding a plastic bucket. Petitioner was not in line with the other inmates, prompting JO2 Lim to approach petitioner. As petitioner looked anxious, JO2 Lim conducted a pat-down frisking on the former and discovered a plastic sachet containing white crystalline substance in the front portion of his brief. Upon further inspection, he also found ten (10) more plastic sachets of white crystalline substance in a black denim coin purse inside the plastic bucket which petitioner was holding.^[7] JO2 Lim then brought petitioner to the jail investigator for preparation of documents and respective markings of the confiscated items. Thereafter, JO2 Lim brought petitioner and the marked items to the Station Anti-Illegal Drugs Special Operation Task Group (SAID-SOTG), Caloocan City, where they were turned over to Senior Police Officer 3 Fernando C. Moran (SPO3 Moran).^[8] SPO3 Moran then prepared the physical inventory of evidence,^[9] requested for laboratory examination,^[10] and took photographs^[11] of petitioner and the seized items. Subsequently, SPO3 Moran forwarded the seized items to the PNP Crime Laboratory in Northern Police District Crime Laboratory Office, Valenzuela City Satellite Office (crime laboratory) for laboratory examination. Upon qualitative examination,^[12] the submitted specimens tested positive for *methamphetamine hydrochloride* or *shabu*, a dangerous drug.^[13]

In his defense, petitioner denied the charges against him and claimed that after the jail count of the inmates, JO2 Lim approached another inmate, who was then holding a paint bucket, and instructed petitioner to open the bucket. He maintained that nothing was recovered from him except for money and was surprised that he was the one charged.^[14]

In a Decision^[15] dated January 17, 2017, the RTC found petitioner guilty beyond reasonable doubt of the crime charged, and accordingly, sentenced him to suffer the penalty of imprisonment of twelve (12) years and one (1) day, as minimum, to seventeen (17) years and eight (8) months, as maximum, and to pay a fine in the amount of P300,000.00.^[16] The RTC found that the prosecution was able to establish all the elements of the crime of Illegal Possession of Dangerous Drugs, as well as the *corpus delicti* of the crime through the positive testimony of JO2 Lim.^[17]

Aggrieved, petitioner appealed^[18] to the CA.

In a Decision^[19] dated October 30, 2017, the CA affirmed petitioner's conviction.^[20] It found that the integrity and evidentiary value of the *corpus delicti* had been preserved and the post-seizure procedure under Section 21 of RA 9165 had been complied with, considering that the marking, inventory, and photography of the seized items were conducted in the presence of petitioner, the request for laboratory examination was prepared, and the seized items were personally brought by the investigator to the crime laboratory for qualitative examination.^[21]

Undaunted, petitioner moved for reconsideration,^[22] which was, however, denied in a Resolution^[23] dated March 16, 2018; hence, the instant petition.

The Court's Ruling

The petition is meritorious.

In cases for Illegal Sale and/or Illegal Possession of Dangerous Drugs under RA 9165,^[24] it is essential that the identity of the dangerous drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime.^[25] Failing to prove the integrity of the *corpus delicti* renders the evidence for the State insufficient to prove the guilt of the accused beyond reasonable doubt, and hence, warrants an acquittal.^[26]

To establish the identity of the dangerous drugs with moral certainty, the prosecution must be able to account for each link of the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime.^[27] As part of the chain of custody procedure, the law requires, *inter alia*, that the marking, physical inventory, and photography of the seized items be conducted immediately after seizure and confiscation of the same. In this regard, case law recognizes that "[m]arking upon immediate confiscation contemplates even marking at the nearest police station or office of the apprehending team."^[28] Hence, the failure to immediately mark the confiscated items at the place of arrest neither renders them inadmissible in evidence nor impairs the integrity of the seized drugs, as the conduct of marking at the nearest police station or office of the

apprehending team is sufficient compliance with the rules on chain of custody.^[29]

The law further requires that the said inventory and photography be done in the presence of the accused or the person from whom the items were seized, or his representative or counsel, as well as certain required witnesses, namely: (a) if **prior** to the amendment of RA 9165 by RA 10640,^[30] a representative from the media AND the Department of Justice, and any elected public official;^[31] or (b) if **after** the amendment of RA 9165 by RA 10640, an elected public official and a representative of the National Prosecution Service OR the media.^[32] The law requires the presence of these witnesses primarily "to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence."^[33]

As a general rule, compliance with the chain of custody procedure is strictly enjoined as the same has been regarded "'not merely as a procedural technicality but as a matter of substantive law.' This is because '[t]he law has been crafted by Congress as safety precautions to address potential police abuses, especially considering that the penalty imposed may be life imprisonment.'"^[34]

Nonetheless, the Court has recognized that due to varying field conditions, strict compliance with the chain of custody procedure may not always be possible.^[35] As such, the failure of the apprehending team to strictly comply with the same would not *ipso facto* render the seizure and custody over the items as void and invalid, provided that the prosecution satisfactorily proves that: (a) there is a justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items are properly preserved.^[36] The foregoing is based on the saving clause found in Section 21 (a),^[37] Article II of the Implementing Rules and Regulations (IRR) of RA 9165, which was later adopted into the text of RA 10640.^[38] It should, however, be emphasized that for the saving clause to apply, the prosecution must duly explain the reasons behind the procedural lapses,^[39] and that the justifiable ground for non-compliance must be proven as a fact, because the Court cannot presume what these grounds are or that they even exist.^[40]

Anent the witness requirement, non-compliance may be permitted if the prosecution proves that the apprehending officers exerted genuine and sufficient efforts to secure the presence of such witnesses, albeit they eventually failed to appear. While the earnestness of these efforts must be examined on a case-to-case basis, the overarching objective is for the Court to be convinced that the failure to comply was reasonable under the given circumstances.^[41] Thus, mere statements of unavailability, absent actual serious attempts to contact the required witnesses, are unacceptable as justified grounds for non-compliance.^[42] These considerations arise from the fact that police officers are ordinarily given sufficient time - beginning from the moment they have received the information about the activities of the accused until the time of his arrest to prepare for a buy-bust operation and consequently, make the necessary arrangements beforehand, knowing fully well that they would have to strictly comply with the chain of custody rule.^[43]

Notably, the Court, in *People v. Miranda*,^[44] issued a definitive reminder to prosecutors when dealing with drugs cases. It implored that "[since] the [procedural] requirements are clearly set forth in the law, the State retains the