

SECOND DIVISION

[G.R. No. 235785, August 14, 2019]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
JOEY NABUA Y CAMPOS, ACCUSED-APPELLANT.**

D E C I S I O N

LAZARO-JAVIER, J.:

The Case

This appeal assails the Decision^[1] dated August 17, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 08586 entitled "*People of the Philippines v. Jose Nabua y Campos*," affirming the conviction of Jose Nabua for violation of Section 5, Article II of Republic Act (RA) No. 9165.^[2]

The Proceedings Before the Trial Court

The Charge

By Information^[3] dated October 22, 2013, in Criminal Case No. A-6360, appellant Jose Nabua and his co-accused Paul Saturnino and Gideon Baltazar were charged with violation of Section 5, Article II of RA 9165, viz:

That on or about the 20th day of October 2013, in the Municipality of Rosario, Province of La Union, Philippines and within the jurisdiction of this Honorable Court, the above-named accused conspiring, confederating and mutually aiding each other, did then and there willfully, unlawfully and knowingly sell and deliver to a police officer who acted as a "poseur buyer" a heat sealed plastic sachet containing "shabu" or methamphetamine hydrochloride for and in consideration of P500.00, more or less, without any lawful authority.

CONTRARY TO LAW.

The case was raffled to the Regional Trial Court (RTC) – Branch 31, Agoo, La Union.

Accused Saturnino and Baltazar jointly filed a Motion to Dismiss on the ground that their mere presence at the alleged crime scene did not automatically make them co-conspirators in the alleged illegal sale transaction.^[4] The trial court granted^[5] the motion. Consequently, they were dropped from the charge.

The case, nonetheless, proceeded against appellant. On arraignment, he pleaded "not guilty."^[6] Trial ensued.

During the trial, SPO1 Roberto V. Vargas, SPO1 Reynaldo B. Ofiaza, and PO1 Tony S. Fernandez, Jr., members of the Intelligence Operatives of Rosario Police Station, Rosario La Union, testified for the prosecution. The defense, on the other hand, presented appellant as its lone witness.

The Prosecution's Evidence

SPO1 Roberto V. Vargas, SPO1 Reynaldo B. Ofiaza, and PO1 Tony S. Fernandez, Jr. identified and confirmed^[7] the contents of their Joint Affidavit of Arrest^[8] dated October 21, 2013.

On October 20, 2013, around 5 o'clock in the afternoon, Police Chief Inspector (P/C Insp.) Orly Z. Pagaduan received a report from a confidential informant that a certain "alias Boyet" of Barangay Rabon, Rosario La Union was selling illegal drugs.^[9] P/C Insp. Pagaduan briefed the members of the Intelligence Operatives Office and organized a buy bust operation.^[10] SPO1 Vargas got assigned as poseur buyer while SPO1 Ofiaza and PO1 Fernandez as immediate back-up. They agreed on the pre-arranged signal: SPO1 Vargas will scratch his neck indicating the sale has been consummated.^[11]

Per SPO1 Ofiaza's instruction, the informant told appellant that he found a buyer of shabu and to meet around 5 o'clock of even date at Barangay Rabon, Rosario La Union, particularly in front of Ortega's store, for the sale transaction.^[12]

The team proceeded to Brgy. Rabon at Rosario, La Union. SPO1 Ofiaza and PO1 Fernandez went inside Ortega's store while SPO1 Vargas and the informant waited for appellant outside. Appellant texted the informant that he was on his way to their meeting place. The team then saw appellant alight from a white Mitsubishi L-300 cab which halted 20 meters away from the store. Appellant walked toward SPO1 Vargas and informant.^[13]

The informant introduced SPO1 Vargas to appellant as the person interested in buying shabu. Appellant asked SPO1 Vargas about the money but the latter requested to see the shabu first. Appellant then handed to SPO1 Vargas one (1) heat sealed transparent plastic sachet containing white crystalline substance. SPO1 Vargas, in turn, gave appellant buy-bust money who slipped the money to his pocket. SPO1 Vargas scratched his neck to signal the other team members that the sale had been consummated.^[14]

PO1 Fernandez immediately closed in, informed appellant of his constitutional rights, and arrested him. Meantime, SPO1 Vargas and SPO1 Ofiaza ran toward appellant's vehicle where they saw Saturnino and Baltazar on board. The latter alighted from the vehicle and got frisked. The search, however, yielded nothing.

SPO1 Vargas also searched appellant and recovered from the latter the buy-bust

money and another sachet of suspected shabu.

At the *situs criminis*, SPO1 Vargas marked the seized plastic sachets with "RVV-1" (sachet brought from appellant) and "RVV-2" (another sachet recovered from appellant). SPO1 Vargas also prepared an inventory of the seized items in the presence of Barangay Captain Eduardo Peralta and two (2) Barangay Tanods Edgar Cabunias and Victor Lopez.

SPO1 Vargas, thereafter, brought the seized items to the Regional Crime Laboratory Office 1, Parian, San Fernando City, La Union for examination.^[15] Forensic Chemist PSI Ma. Theresa Amor C. Manuel received the request and specimens and conducted a qualitative examination thereon. Per Report No. D-107-2013, the specimens were found positive for methamphetamine hydrochloride, a dangerous drug.^[16]

The prosecution submitted the following evidence: 1) two (2) plastic sachets marked as RVV-1 (sold shabu) with date 10-20-2013 and RVV-2 (possessed shabu) with date 10-20-2013;^[17] 2) buy bust money consisting of five (5) twenty peso bills with serial numbers XB087542, RE282571, ND526434, EC527233, and UW00911, and four (4) one hundred peso bills with serial numbers DA957022, DA880462, FD881192 and BK539242;^[18] 3) Certificate of Inventory dated October 20, 2013;^[19] 4) Pictures taken during the inventory;^[20] 5) Request for Laboratory Examination;^[21] 6) Initial and Final Laboratory Report;^[22] 7) Certificate of Coordination;^[23] 8) Chain of Custody Form;^[24] 9) Joint Affidavit of Arrest;^[25] and 10) Police Report.^[26]

The Defense's Evidence

Appellant testified that on October 20, 2013, from 8 o'clock in the morning until 5 o'clock in the afternoon, he was performing his duty as traffic enforcer in San Fabian, Pangasinan.^[27]

On his way home, Saturnino and Baltazar invited him to buy pigeons. They boarded a white L-300 white van on their way to Barangay Rabon, Rosario.^[28] His companions asked him to alight from the vehicle and to look for the person selling pigeons.^[29] As he walked toward the store, he saw SPO1 Vargas in civilian clothes. SPO1 Vargas asked him if he was "Boyet" to which he said "no."^[30] SPO1 Vargas suddenly poked a gun at him while two (2) other men arrested him.

He was brought outside the store where the seized items were marked and inventoried in the presence of two barangay tanods Edgar Cabunias and Victor Lopez, and the barangay captain Eduardo Peralta. Police Inspector Edgar Carlos took photographs during the marking and inventory.^[31] Thereafter, he and his companions were handcuffed, brought to Rosario Police Station,^[32] and charged with violation of Section 5, Article II of RA 9165.

The Trial Court's Ruling

By Decision^[33] dated July 13, 2016, the trial court found appellant guilty as charged, viz:

WHEREFORE, premises considered, judgment is hereby rendered finding accused JOEY NABUA y CAMPOS **GUILTY** beyond reasonable doubt of the crime of violation of Section 5, Article II of Republic Act No. 9165 (Sale of Dangerous Drug), and is hereby sentenced to suffer the penalty of **LIFE IMPRISONMENT** and ordered to pay a fine of **FIVE HUNDRED THOUSAND PESOS** (P500,000.00).

The dangerous drugs and drug paraphernalia obtained from the persons of the accused and subject of the Information are hereby ordered delivered forthwith to the Philippine Drug Enforcement Agency (PDEA) for proper disposition.

SO ORDERED.^[34]

It ruled there was a valid buy-bust operation resulting in the purchase of 0.0289 gram of "shabu" (marked RVV-1). The prosecution had established the integrity and identity of the *corpus delicti* from the time it was seized until it was presented as evidence in court. It further held the presence of the media and DOJ representatives for the inventory and photograph of seized items was not indispensable for the prosecution of the crime.^[35]

The Proceedings Before the Court of Appeals

On appeal, appellant faulted the trial court when it allegedly overlooked fatal omissions of the police team during the supposed buy-bust operation, viz: the marking was not done immediately upon the seizure of the alleged dangerous drug; and the seized items were not placed in a separate container nor sealed before its transfer to the crime laboratory. Also, except for her receipt of the request for laboratory examination and the results of the same, there was no showing how forensic chemist PSI Manuel actually handled the specimen before, during, and after the examination. Therefore, there was no proof that the specimen received for chemical examination was the same substance tested, stored, and presented in court as evidence.^[36]

For its part, the People, through Assistant Solicitor General Derek R. Puertollano and Associate Solicitor Andres S. Jose Jr., countered in the main: 1) the elements of illegal sale of dangerous drugs were all sufficiently established; 2) the presumption of regularity in the performance of official functions and duties in favor of the buy-bust team prevails over appellant's denial; 3) the marking, inventory, and photography in the presence of appellant and the three (3) barangay officials substantially complied with the requirements of the chain of custody rule; and 4) the integrity and evidentiary value of seized items were properly preserved.^[37]

The Court of Appeals' Ruling

By Decision^[38] dated August 17, 2017, the Court of Appeals affirmed. It held that there was a valid buy-bust operation leading to appellant's arrest and confiscation of the dangerous drugs in question. It also found that the arresting officers substantially complied with the chain of custody rule and the integrity of the *corpus delicti* was duly preserved.

The Present Appeal

Appellant now seeks affirmative relief from the Court and pleads anew for his acquittal.

For the purpose of this appeal, both appellant and the People adopted, in lieu of supplemental briefs, their respective briefs filed before the Court of Appeals.^[39]

Issue

Did the Court of Appeals err when it affirmed appellant's conviction for violation of Section 5, Article II of RA 9165?

Ruling

In illegal drugs cases, the drug itself constitutes the *corpus delicti* of the offense. The prosecution is, therefore, tasked to establish that the substance illegally possessed by the accused is the same substance presented in court.^[40]

To ensure the integrity of the seized drug item, the prosecution must account for each link in its chain of custody:^[41] **first**, the seizure and marking of the illegal drug recovered from the accused by the apprehending officer; **second**, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; **third**, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; **and fourth**, the turnover and submission of the marked illegal drug seized by the forensic chemist to the court.^[42]

This is the chain of custody rule. It came to fore due to the unique characteristics of illegal drugs which render them indistinct, not readily identifiable, and easily open to tampering, alteration, or substitution either by accident or otherwise.^[43]

Section 21 of RA 9165 prescribes the standard in preserving the *corpus delicti* in illegal drug cases, viz:

Section 21. *Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment.* – The PDEA shall take charge and have custody of all dangerous drugs, plant sources