

SECOND DIVISION

[G.R. No. 227993, September 25, 2019]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
BENSON TULOD Y CUARTE, ACCUSED -APPELLANT.**

DECISION

LAZARO-JAVIER, J.:

The Case

This appeal assails the Decision dated September 9, 2015^[1] of the Court of Appeals in CA-G.R. CR-H.C. No. 06622 affirming appellant's conviction for violation of Sections 5 and 11, Republic Act (RA) 9165.^[2]

The Proceedings Before the Trial Court

The Charge

Under two (2) separate Informations dated April 16, 2009, appellant Benson Tulod y Cuarte was charged with violation of Sections 5 and 11, RA 9165, thus:

Criminal Case No. 84-2010

That on or about the [twelfth day] of March 2010, in the city of Olongapo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully, and knowingly deliver to PO2 David Domingo Php 200.00 (SN-KX112694 & DZ437161) worth of Methamphetamine Hydrochloride otherwise known as "Shabu", which is dangerous drug in one (1) plastic sachet weighing 0.057 grams.

CONTRARY TO LAW

Criminal Case NO. 83-2010

That on or about the twelfth (12th) day of March 2010, in the City of Olongapo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully and knowingly have in his effective possession and control [eight] (8) heat-sealed transparent plastic sachets containing white crystalline substance otherwise known as "Shabu" having a total weight of 0.884 grams, said accused not having the corresponding license or prescription to possess said dangerous drugs.

CONTRARY TO LAW.^[3]

The case was raffled to the Regional Trial Court (RTC) - Branch 75, Olongapo City.

On arraignment, appellant pleaded *not guilty* to both offenses. Trial proper ensued.

During the trial, PO2 David Domingo, PO2 Lawrence Reyes^[4], SPO2 Allan delos Reyes^[5] and Forensic Chemist Arlyn Dacsil testified for the prosecution. Meanwhile, appellant, his mother Sonia Tulod and appellant's brother-in-law Mario Jimenez testified for the defense.

The Prosecution's Version

PO2 David Domingo, a member of the City Anti-Illegal Drugs Special Operations Team (CAIDSOT), testified that as early as February 2010, their office had been receiving reports regarding appellant's illegal drug trade in his residence at 29th Street, West Tapinac in Olongapo City. Surveillance confirmed that known drug personalities had been coming in and out of appellant's house. Thus, on March 12, 2010, around 2:30 in the afternoon, the CAIDSOT performed a buy-bust operation wherein he (PO2 Domingo) was assigned as poseur-buyer and PO2 Lawrence Reyes as back-up. That afternoon, he and the buy-bust team proceeded to the place of operation along with a confidential informant.^[6]

He and the confidential informant walked towards appellant's house while the rest of the buy-bust team secured the perimeter. Appellant greeted them at the entrance. The confidential informant introduced him to appellant as an interested buyer and brief conversation ensued between them. Appellant asked where he used to buy drugs. He gave names of arrested drug dealers in response. Appellant then offered him the *shabu* he was selling, and he agreed to buy Php200.00 worth. Appellant took the payment and, in turn, handed him a plastic sachet containing the suspected drug which appellant retrieved from his pocket.^[7]

PO2 Domingo wiped his face with a towel to signal the buy-bust team that the sale had been consummated. Consequently, members of the CAIDSOT rushed to the crime scene to arrest appellant. PO2 Reyes frisked appellant and recovered from the latter the marked money and eight (8) more transparent plastic sachets containing the suspected drugs. While at the crime scene, he marked the control buy with his initials "DSD". He turned the seized item over to the designated investigator SPO2 Allan delos Reyes at the place of operation for inventory. Subsequently, SPO2 delos Reyes prepared the request for laboratory examination and delivered the seized items to the crime laboratory.^[8]

PO2 Lawrence Reyes testified that a week before the operation, he took part in the surveillance of appellant and confirmed the latter's drug activities. On March 12, 2010, he was designated as back-up for PO2 Domingo for the buy-bust operation. He witnessed the transaction between appellant and PO2 Domingo. When PO2 Domingo finally gave the pre-arranged signal, he rushed to the crime scene. He frisked appellant and recovered the marked money and eight (8) transparent plastic sachets from the latter's pockets. While there, he marked the plastic sachets with his initials "LR". He turned them over to SPO2 Allan delos Reyes at the place of operation. In turn, SPO2 delos Reyes marked the items with his initials "ADR" before preparing the inventory. Appellant, barangay official Allan Dean Haley and city prosecutor representative Jaime Navarro witnessed the inventory and photograph of

the seized items. The seized items were later examined at the crime laboratory and tested positive for methamphetamine hydrochloride or *shabu*.^[9]

SPO2 Allan delos Reyes testified to receiving the seized items at Police Station 2. By that time, said items already bore the initials of the arresting officers. He marked the seized items with his own initials, "ADR". Thereafter, he conducted an inventory of the seized items in the presence of appellant, a barangay official and representative from the city prosecutor's office. He also prepared the request for laboratory examination of the specimens and delivered them to the crime laboratory.^[10]

The prosecution and defense stipulated on the testimony of Arlyn Dacsil as the forensic chemist who received and examined the seized items at the crime laboratory. Based on her examination, the specimens tested positive for *methamphetamine hydrochloride* or *shabu*.^[11]

The Defense's Version

Appellant denied the charge, claiming this was a clear case of "*palit-ulo*". He testified that on March 12, 2010, he was busy doing household work when four (4) police officers suddenly entered his home. They were looking for someone although he could not remember who it was. When they asked him if he owned a gun, he denied it. The police officers, nonetheless, brought him to Police Station 2. There, he saw his *kumpare* Abelino Redondo in handcuffs; Redondo was apparently arrested for drug charges. The police officers showed him the drugs recovered from Redondo but the latter identified him as the owner thereof.^[12]

Mario Jimenez testified that he was appellant's brother-in-law who lived with him in the same compound. At the time of the incident, he was repairing his motorcycle while appellant was in his own house, taking care of his child. He witnessed several men arrive and arrest appellant. They brought appellant out of the house and boarded him on a van.^[13]

Appellant's mother Sonia Tulod also corroborated his testimony. She testified that at the time of the incident, she was in front of their house getting clothes while appellant was attending to his daughter. Suddenly, several men came to their house, went to her room, got her things and scattered them in the living room. Sonia asked why they were doing such things and they replied that her son was involved in illegal drugs. They left with the things scattered but brought appellant with them to Police Station 2. They told her to follow them there.^[14]

The Trial Court's Ruling

By its Judgment dated December 2, 2013,^[15] the trial court rendered a verdict of conviction, viz:

WHEREFORE, judgment is rendered as follows:

1. In Criminal Case No. 83-10, the Court finds BENSON TULOD y CUARTE GUILTY beyond reasonable doubt of Violation of Section 11, R.A. 9165 and sentences him to suffer the penalty of imprisonment from

twelve (12) years and one (1) day to fourteen (14) years and eight (8) months and to pay a fine of P300,000.00 plus costs, without subsidiary imprisonment in case of insolvency.

2. In Criminal Case No. 84-12, the Court finds BENSON TULOD y CUARTE GUILTY beyond reasonable doubt of Violation of Sec. 5, R.A. 9165 and sentences him to suffer the penalty of life imprisonment and to pay a fine of P500,000.00 plus cost, without subsidiary imprisonment in case of insolvency.

The accused shall also suffer the accessory penalties under Section 35, R.A. 9165 and shall be credited in the service of his sentence with the full time during which he has undergone preventive imprisonment subject to the conditions imposed under Art. 29 of the Revised Penal Code as amended.

The shabu sachets marked as Exhs. "I" to "I-8" of the Prosecution are ordered confiscated in favor of the government and to be disposed of in accordance with the law.

SO DECIDED.^[16]

It ruled that the prosecution witnesses established the guilt of the accused through a clear and coherent narration of events. From the testimonies of these witnesses, the identities of the buyer and the seller of illegal drugs were sufficiently established, and the object and consideration of the sale were identified in court.

The testimonies of the prosecution witnesses deserved more weight and credit than those of the defense witnesses since the former conformed with documentary and object evidence. Absent any ill motive on the part of the arresting officers to falsely charge appellant, the trial court found no reason to disbelieve their testimonies.^[17]

The Proceedings Before the Court of Appeals

On appeal, appellant faulted the trial court for rendering a verdict of conviction despite the failure of the arresting officers to immediately mark the seized items at the place of arrest; although appellant was arrested at his residence at 29th Street, West Tapinac, Olongapo City, the seized items were marked only at Police Station 2, Barangay Kababae. Too, the testimonies of the arresting officers were highly incredible. Appellant would not have openly sold illegal drugs to strangers in his residence. Illicit transactions such as drug trades are carried out with utmost secrecy or whispers to avoid detection.^[18]

The Office of the Solicitor General (OSG), through State Solicitor M. L. Carmela P. Aquino-Cagampang defended the verdict of conviction.^[19] It argued that the elements of illegal sale and possession of dangerous drugs were duly established during trial. More, the prosecution had proven an unbroken chain of custody over the *corpus delicti*: PO2 Domingo and PO2 Reyes marked the seized items at the place of arrest; they turned over the seized items to SPO2 delos Reyes at Police Station 2 where the inventory and photograph were conducted; after which, SPO2 delos Reyes prepared the request for laboratory examination and delivered the

seized items to the crime laboratory; and since both parties stipulated on the testimonies of the forensic chemist, the prosecution established the chain of custody required by law. Any purported procedural lapse is immaterial since the integrity and evidentiary value of the *corpus delicti* were duly preserved.^[20]

The Court of Appeals' Ruling

By Decision dated September 9, 2015, the Court of Appeals affirmed.^[21] It found that appellant was arrested *in flagrante delicto* selling dangerous drugs during a buy-bust operation. Upon appellant's arrest, PO2 Reyes conducted a body search on him which yielded eight (8) more sachets of *shabu*. Hence, the prosecution was able to establish the elements of the crimes charged.^[22]

The alleged failure of the arresting officers to strictly comply with Section 21, RA 9165 was not fatal to the prosecution's case since they were able to establish that the integrity and evidentiary value of the seized items were duly preserved.^[23]

Finally, appellant's denial cannot overcome the presumption of regularity accorded to police officers in their performance of official functions.^[24]

The Present Appeal

Appellant now seeks for a verdict of acquittal from the Court.

In compliance with Resolution dated January 25, 2017, the OSG manifested that in lieu of a supplemental brief, it was adopting its brief before the Court of Appeals.^[25]

On the other hand, appellant filed his Supplemental Brief,^[26] adopting his brief before the Court of Appeals and raising two new arguments for his acquittal. **First**, the inconsistent testimonies of the arresting officers on when the seized items were turned over to SPO2 delos Reyes cast doubt on the integrity of the *corpus delicti*.^[27] **Second**, no one in the right mind would sell contraband to known police officers. Here, appellant testified to knowing PO2 Domingo and PO2 Reyes even before the alleged buy-bust operation.

The Threshold Issue

Did the Court of Appeals err in affirming the trial court's verdict of conviction despite the attendant procedural deficiencies relative to the chain of custody over the seized items?

Ruling

We rule in the affirmative.

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.^[28]

To ensure the integrity of the seized drug item, the prosecution must account for