

SECOND DIVISION

[G.R. No. 231305, September 11, 2019]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALVIN GALISIM Y GARCIA, ACCUSED-APPELLANT.

DECISION

LAZARO-JAVIER, J.:

The Case

This appeal seeks to reverse the Decision^[1] dated August 16, 2016 of the Court of Appeals in CA-G.R. CR HC No. 06705 affirming the conviction of appellant Alvin Galisim y Garcia for violation of Sections 5 and 11, Article II of Republic Act No. 9165 (RA 9165).

The Proceedings Before the Trial Court

The Charge

On February 21, 2011, two (2) separate Informations were filed against appellant, viz:

Criminal Case No. 17436-D

"On or about February 19, 2011, in Pasig City and within the jurisdiction of this Honorable Court, the accused, not being authorized by law, did then and there willfully, unlawfully and feloniously sell, deliver and give away to PO3 Julius Maynigo, a member of Philippine National Police, who acted as a poseur-buyer, one (1) heat-sealed transparent plastic sachet containing two (2) centigrams (0.02 gram) of white crystalline substance, which was found positive to the test of methamphetamine hydrochloride, a dangerous drug, in violation of the said law.

Contrary to law.^[2]"

Criminal Case No. 17437-D

"On or about February 19, 2011, in Pasig City and within the jurisdiction of this Honorable Court, the accused, not being lawfully authorized to possess any dangerous drugs, did then and there willfully, unlawfully and feloniously have in his possession and under his custody one (1) heat-sealed transparent plastic sachet containing two (2) centigrams (0.02 gram) of white crystalline substance, which was found positive to the test for Methamphetamine Hydrochloride, a dangerous drug, in violation of

the aforesaid law.

Contrary to law.^[3]

The case was raffled to the Regional Trial Court - Branch 164, Pasig City.

On arraignment, appellant pleaded not guilty.

During the trial, PO3 Julius M. Maynigo (PO3 Maynigo) and PO3 Richard D. Coquia (PO3 Coquia), testified for the prosecution. On the other hand, appellant Alvin Galisim y Garcia testified as lone witness for the defense.

The Prosecution's Version

PO3 Maynigo and PO3 Coquia's testimonies are synthesized as follows:

On February 19, 2011, around 9:30 in the evening, Police Senior Inspector Renato B. Castillo (P/Insp. Castillo) formed a team to conduct buy-bust operation in Baltazar Street, Villa Monique, Barangay Pinagbuhatan, Pasig City (Villa Monique). The team included PO3 Maynigo as poseur-buyer, PO3 Coquia as team leader, police officers Gerardo Javier, Roderick Ladera, Jayson Rael, Jonathan Lunzaga and three (3) others as back-up.

During the meeting, P/Insp. Castillo relayed to the team an information from a confidential informant that three (3) individuals namely: Alias Macalone, Alias Atoy, and Alias Igtad were selling dangerous drugs in Villa Monique. He provided PO3 Maynigo two (2) 100 peso bills to be used as buy-bust money.^[4]

The team headed to the Philippine Drug Enforcement Agency (PDEA) to secure authority on the buy-bust operation. PO1 Jocelyn Jacinto issued a Coordination and Pre-Operation Report dated February 19, 2011. Thereafter, they and the confidential informant headed to Villa Monique.^[5]

Around 11:30 in the evening, PO3 Maynigo and the confidential informant walked through an alley in Villa Monique, looking for Alias Macalone, Alias Atoy, and Alias Igtad. There, the confidential informant met a man, later identified as appellant Alvin Galisim y Garcia. Appellant asked if they wanted to "score" (buy illegal drugs). PO3 Maynigo nodded to signal his interest while the confidential informant said "*bibili kami.*" PO3 Maynigo handed the buy-bust money to appellant who slid it in his pocket. In turn, appellant took out two (2) plastic sachets from his right pocket and asked PO3 Maynigo to choose which one to buy, the latter picked one (1) item and after verifying that it contained white crystalline substance, he immediately removed his bullcap: the pre-arranged signal. Before PO3 Coquia could have approached them, PO3 Maynigo was already holding appellant who was resisting arrest. As soon as PO3 Coquia had closed in, they handcuffed appellant and conducted a body search on him. They found in appellant's possession another plastic sachet containing white crystalline substance, the buy-bust money, and a .30 caliber carbine ammunition.^[6]

PO3 Maynigo and PO3 Coquia immediately marked all three (3) items. PO3 Maynigo marked the first sachet which he bought from appellant with "**JM-Alvin-1-02-19-**

2011" and the second sachet which PO3 Coquia found in appellant's possession during the search, with "**JM-Alvin-2-02-19-2011**." "JM" stands for Julius M. Maynigo, "Alvin," for appellant's name, and "02-19-2011" for the date of seizure. PO3 Coquia further marked the .30 caliber with RDC/Alvin 02-19-2011. "RDC" stands for Richard D. Coquia and "02-19-2011" referred to the date. PO3 Coquia placed the items in a zip lock container. Appellant was thereafter informed of his rights and the offense he supposedly committed. The team left the area together with appellant and proceeded to Eastern Police District (EPD) Annex, Meralco Avenue, Pasig City. There, they informed investigator PO3 Nelson Cruz (PO3 Cruz) about the buy-bust incident and showed him the confiscated items. PO3 Coquia took pictures of the evidence inside the office while PO3 Cruz prepared the Request for Laboratory Examination and Request for Drug Test. PO3 Coquia also prepared an Affidavit of Arrest.^[7]

The following day or on February 20, 2011, PO3 Maynigo and PO3 Coquia went to the EPD Crime Laboratory in Marikina City and submitted the requests together with the seized items.^[8]

Per Physical Sciences Report No. No. D-54-11E dated February 20, 2011, Forensic Chemist Police Chief Inspector Isidro Cariño (PCI Cariño) verified that the specimens^[9] subject of the buy-bust and confiscated from appellant yielded positive for methamphetamine hydrochloride, a dangerous drug.^[10]

The prosecution offered the following in evidence:

1. Request for Laboratory Examination dated February 20, 2011;
2. *Shabu*;
3. Physical Science Report No. D-54-11 E dated February 20, 2011;
4. Buy-bust money;
5. *Sinumpaang Salaysay* of PO3 Richard Coquia;
6. *Sinumpaang Salaysay* of PO3 Maynigo;
7. Request for Drug Test Examination dated February 20, 2011;
8. Certificate of Inventory dated February 19, 2011;
9. Coordination Form dated February 19, 2011;
10. Pre-Operation Report dated February 19, 2011; and
11. Pictures of the seized items.^[11]

The Defense's Version

Appellant testified that on February 19, 2011 around 10:30 in the evening, he was resting in his house at Villa Monique. His wife woke him up to buy milk for their child. On his way to buy infant's milk two (2) persons, a male and a female, wearing civilian clothes arrested him. When he asked why, they did not respond. He was, thereafter, dragged out of the alley, brought inside a car, and mauled. Inside the car, appellant was asked to just point to a person who sold drugs, so he can be released. The police officers mauled and strangled him when he was unable to give them a name. Thereafter, they transported him to a police precinct and brought him inside a room. There, they interrogated him about a certain "Atoy." But he refused to give any information, thus, causing them to lock him in the detention cell. The arresting officers badly beat him up but he was not brought to the hospital for treatment or medical examination.

On February 20, 2011, around 7 o'clock in the morning, they took him out of the detention cell. Three (3) plastic sachets consisting of one (1) bullet and two (2) white crystalline substance were shown him. They forced him to sign on the tape attached to the plastic sachets. Later in the afternoon, he was brought to the prosecutor's office. The prosecutor asked him questions but he was unable to speak because he was strangled earlier by several police officers. As a result, he suffered from swollen throat.^[12]

The defense did not offer any documentary evidence.^[13]

The Trial Court's Ruling

By Joint Judgment dated December 12, 2013,^[14] the trial court convicted appellant of violation of Sections 5 and 11, Article II of RA 9165, *viz*:

WHEREFORE, judgment is rendered as follows:

1. In Criminal Case No. 17436-D, the Court finds accused Alvin Galisim y Garcia **GUILTY** beyond reasonable doubt of violation of Section 5, Article II of RA No. 9165, and hereby imposes upon him the **penalty of life imprisonment and a fine of five hundred thousand pesos (P 500,000.00)**.

2. In Criminal Case No. 17437-D, the Court also finds accused Alvin Galisim y Garcia **GUILTY** beyond reasonable doubt of violation of Section 11, Article II of RA No. 9165, and hereby imposes upon him indeterminate penalty of imprisonment from **twelve (12) years and one (1) day, as the minimum term, to fifteen (15) years, as the maximum term, and to pay a fine of three hundred thousand pesos (P 300,000.00)**.

SO ORDERED.

The Proceedings Before the Court of Appeals

On appeal, appellant faulted the trial court for finding him guilty as charged despite the incredulity of the prosecution's evidence and its failure to prove beyond reasonable doubt the *corpus delicti's* identity and integrity,^[15] *viz*:

First, it is beyond human comprehension that appellant would casually sell illegal drugs in a public place to a total stranger.

Second, no representative from the media, Department of Justice (DOJ), and a duly elected official witnessed the marking and inventory of the seized items.

Third, the seized items were photographed at the police station and not at the place of arrest. There were also no representatives from the media and the DOJ, or elected Barangay Officials who witnessed them.

Finally, the prosecution failed to establish that from the time the illegal drugs were

confiscated up to the time they were presented in court, the contents were not tampered or substituted. The parties merely stipulated that the forensic chemist received and examined the specimens, and his findings were reflected in the Physical Science Report No. D-54-11E.

On the other hand, the Office of the Solicitor General through Assistant Solicitor General Reynaldo L. Saldares and Associate Solicitor Ron Winston A. Reyes, countered in the main: a) selling regulated or prohibited drugs to complete strangers openly and in public is a common occurrence which the Court has taken judicial notice of; b) failure of the buy-bust team to comply with Section 21(1) of RA 9165 will not negate the presumption of regularity in the performance of duty. For what is important is the preservation of the integrity and evidentiary value of the seized items.^[16]

The Court of Appeals' Ruling

By Decision dated August 16, 2016,^[17] the Court of Appeals affirmed. It ruled that the prosecution had adequately and satisfactorily proved the elements of illegal sale of shabu and illegal possession of shabu. It also declared that lack of designated witnesses as required under Section 21 (1) of RA 9165 was not fatal to the prosecution's case, so long as the integrity and evidentiary value of the illegal drugs were preserved.^[18] Its dispositive portion states:

WHEREFORE, the instant **APPEAL** is hereby **DENIED**. Accordingly, the Decision dated December 12, 2013 in Criminal Cases No. 17436-D and 17437-D of the Regional Trial Court, which adjudged accused-appellant ALVIN GALISIM y GARCIA guilty beyond reasonable doubt for violation of Sections 5 and 11, Article II of Republic Act No. 9165 is hereby **AFFIRMED**.

SO ORDERED.

The Present Appeal

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

In compliance with Resolution dated July 10, 2017^[19] both the OSG and appellant manifested^[20] that, in lieu of supplemental briefs, they were adopting their respective briefs before the Court of Appeals.

The Threshold Issue

Did the Court of Appeals err in affirming the trial court's verdict of conviction despite the attendant procedural infirmities relative to the chain of custody over the *corpus delicti*?

Ruling

We acquit.