

SECOND DIVISION

[G.R. No. 230983, September 04, 2019]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
EDGARDO GARCIA Y ANCHETA, ACCUSED-APPELLANT.**

DECISION

LAZARO-JAVIER, J.:

The Case

This appeal^[1] assails the Decision of the Court of Appeals in CA-G.R CR-H.C. No. 07526 dated September 30, 2016^[2] affirming appellant's conviction for violation of Section 5, Article II of Republic Act (RA) 9165.^[3]

The Proceedings Before the Trial Court

The Charge

By Information dated July 12, 2013, appellant Edgardo Garcia y Ancheta was charged with violation of Section 5, Article II of RA 9165, thus:

That on or about the 4th day of July 2013, in the City of San Fernando, La Union, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, willfully, unlawfully and feloniously, deliver and sell one (1) piece of heat sealed transparent plastic sachet containing methamphetamine hydrochloride otherwise known as "*shabu*", a dangerous drug, with a net weight of zero point zero two three one (0.0231) gram to PO3 Elvis L. Yaris, who posed as poseur buyer, and in consideration of said *shabu*, used marked money, consisting of one (1) piece of fake One Thousand peso Bill (P1,000.00) bearing serial number B081871, without first securing the necessary permit, license or authority from the proper government agency.

Contrary to Law.^[4]

The case was raffled to the Regional Trial Court (RTC) - Branch 29, San Fernando City, La Union.

On arraignment, appellant pleaded *not guilty*.

During the trial, PSI Maria Theresa Amor Manuel,^[5] PO3 Marie June Milo,^[6] PO3 Elvis Yaris, PO3 John Ely Bayan, and DZNL radio announcer Rico Valdez testified for the prosecution. Appellant was the lone witness for the defense.^[7]

The Prosecution's Version

PO3 Yaris testified that on July 4, 2013, around midnight, a confidential informant (CI) went to the San Fernando City police station to report that appellant was selling *shabu* at Paris Building, Barangay III, Rizal Ave., San Fernando City. Acting on this report, P/Supt. Manuel Apostol instructed his subordinates to conduct a buy-bust operation.^[8] He (PO3 Yaris) was designated as poseur-buyer and PO3 Bayan as back-up. They prepared the buy-bust money consisting of one Php 1,000 bill marked with his initials "ELY." Thereafter, the CI accompanied the team to the place of operation.^[9]

Around 1:20 in the morning, appellant arrived. The CI approached appellant and they had a brief conversation. He later joined in and the CI introduced him to appellant as an interested buyer. He said he was buying Php1,000-worth and handed the marked bill to appellant, who, in turn, brought out one (1) heat-sealed plastic sachet containing white crystalline substance from his right pocket and turned it over to him.^[10]

After he secured the item, he placed it in his pocket and arrested appellant. PO3 Bayan and PO2 Lucena rushed to where they were and helped him restrain appellant. He conducted a body search following the latter's arrest and recovered the buy-bust money, a cellular phone, two (2) lighters, and a Swiss knife from him.^[11]

Ten (10) minutes later, media representative Rico Valdez and *Punong Barangay* Pepito Lim arrived at the place of arrest. He laid the seized items on the pavement and proceeded to mark and inventory said items in their presence. PO2 Bermudez took photos to document the operation.^[12]

His team brought appellant to the City Health Office for medical examination. He prepared the request for laboratory examination and submitted it with the plastic sachet to the Regional Crime Laboratory Office 1. He was in possession of the item from the time appellant handed it to him until PO3 Milo received it at the crime laboratory.^[13]

PO3 Bayan essentially corroborated PO3 Yaris' factual narration.^[14]

Meanwhile, **Rico Valdez** testified that a police officer called him to witness the inventory of items seized from appellant. When he arrived at the place of arrest, he saw PNP members, appellant, and *Punong Barangay* Lim. PO3 Yaris showed him the seized items consisting of a plastic sachet containing white crystalline substance, buy-bust money in the amount of Php1,000, a cellphone, two (2) lighters, and a Swiss knife, all laid down on the pavement. Thereafter, PO3 Yaris marked the items in their presence and prepared an inventory. He and Lim signed the Certification of Inventory as witnesses.^[15]

The prosecution marked the following evidence: Joint Affidavit Complaint of PO3 Yaris and SPO3 Bayan; one (1) heat-sealed plastic sachet containing white crystalline substance; buy-bust money; one unit Nokia cellular phone; Swiss knife; two lighters; Pre-operational Report; Coordination Report; Request for Laboratory

Report; Certification of Inventory; Initial Laboratory Report with Final Chemistry Report; Photographs; Medical Certificate of appellant; and Sketch.^[16]

The Defense's Evidence

Appellant denied the allegations against him. He narrated that even before his arrest, he already knew PO3 Yaris and PO3 Bayan because he arranged an entrapment operation with them for the arrest of a certain Gina Alvento who planned on illegally mortgaging a firearm to his brother, the Chief *Barangay Tanod*. The police officers provided him with Php2,000 boodle money for the operation.

On June 29, 2013, Alvento went to his house with a .38 firearm. He tried to contact PO3 Yaris and PO3 Bayan but failed to reach them so other officers arrived to arrest Alvento.^[17] He surmised that PO3 Yaris and PO3 Bayan were humiliated because other police officers had step in to effect the arrest of Alvento which they were supposed to perform.^[18] PO3 Yaris and PO3 Bayan took the incident against him personally.

Thereafter, on July 3, 2013, around 11 o'clock in the evening, he was on his way home when PO3 Yaris and PO3 Bayan, on board a motorcycle, suddenly stopped near him. PO3 Bayan placed his hands inside his pockets and claimed that he recovered something therefrom. The policemen brought him to the precinct and boxed him in the abdomen before taking him to the City Health Office the next day.

He maintained that he only had a lighter, a cellular phone, one (1) Php500 bill, and five (5) Php100 bills in his possession at that time;^[19] PO3 Yaris planted the supposed buy-bust money in his pocket. He recognized the Php1,000.00 marked bill as part of the original Php2,000 boodle money given to him by PO3 Yaris for the entrapment operation against Alvento.^[20]

The Trial Court's Ruling

As borne by its Decision dated May 5, 2015,^[21] the trial court rendered a verdict of conviction, viz:

WHEREFORE, premises considered, the Court finds the accused Edgardo Garcia guilty beyond reasonable doubt of the crime of violation of Section 5, Article II of R.A. [9165] and hereby sentences him to suffer the penalty of Life Imprisonment, without eligibility of parole, and to pay the fine of P500,000.00. The period of preventive imprisonment suffered by the accused shall be credited in his favor.

The sachet of shabu subject of the case is ordered transmitted to the PDEA for proper disposition.

SO ORDERED.^[22]

It ruled that all the elements of the crime were sufficiently established, that the chain of custody was duly observed, and the *corpus delicti* was positively identified.^[23]

The Proceedings Before the Court of Appeals

On appeal, appellant faulted the trial court for rendering a verdict of conviction despite the prosecution's alleged procedural lapses and gaps in the chain of custody, viz:

First, after the purported transaction, PO3 Yaris placed the seized item in his pocket without marking the same, casting doubt on the identity of the *corpus delicti*;[24]

Second, the police officers did not testify on how the specimen was preserved and safeguarded during and after its laboratory examination;[25]

Third, the evidence custodian to whom the item was allegedly endorsed after examination was neither identified nor presented;[26]

Fourth, no representative from the Department of Justice (DOJ) was present during the conduct of inventory and photography of the seized items;[27]

Finally, Valdez testified that he was not sure if the items inventoried were actually recovered from appellant.[28]

The Office of the Solicitor General, through Assistant Solicitor General Renan E. Ramos and Associate Solicitor III Analyn G. Avila defended the verdict of conviction.[29] It argued that all the elements of illegal sale of dangerous drugs were established by testimonial, documentary and object evidence; the integrity and evidentiary value of the seized items were preserved; and the *corpus delicti* was identified in open court.[30]

More, the totality of evidence showed that the chain of custody was not broken. PO3 Yaris testified that he arrested appellant and seized items from him following a buy-bust operation; conducted the inventory of the seized items in the presence of media representative Valdez and *Punong Barangay* Lim; prepared the inventory which Valdez and Lim signed while PO2 Bermudez took photographs; prepared the request for laboratory examination; and turned over the documents and sachet to Regional Crime Laboratory Office 1. These led to the indubitable conclusion that the identity and integrity of the *corpus delicti* were preserved.[31]

Finally, appellant's defenses of denial and frame-up failed against the evidence of the prosecution. Police officers were presumed to have acted regularly in the performance of their official functions, absent any proof to the contrary.[32]

The Court of Appeals' Ruling

By Decision dated September 30, 2016, the Court of Appeals affirmed.[33] It found that all the elements of the crime were present and appellant was positively identified in open court as the subject of the buy-bust operation. More, appellant raised the alleged broken chain of custody for the first time on appeal. At any rate, the chain of custody was substantially complied with and the *corpus delicti* was established with certainty.[34] Finally, appellant failed to adduce sufficient evidence to substantiate his defense of denial and frame-up; the presumption of regularity of

performance of official duties therefore prevailed.^[35]

The Present Appeal

Appellant now asks the Court for a verdict of acquittal.^[36]

In compliance with Resolution dated June 28, 2017, both appellant and the OSG manifested that in lieu of supplemental briefs, they were adopting their respective briefs before the Court of Appeals.^[37]

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 *corpus delicti*!

Ruling

We acquit.

In criminal cases, an appeal throws the entire case wide open for review.^[38] Thus, even if appellant challenged the arresting officers' compliance with the chain of custody rule first time on appeal, the Court is not barred from reviewing whether there was indeed unjustified deviation from the rule.

Petitioner was charged with unauthorized sale of dangerous drug allegedly committed on July 4, 2013. The governing law, therefore, is RA 9165. Section 21 of which 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 of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

- (1) The apprehending team having initial custody and control of the drugs shall, **immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof;** (emphasis added)