

## SECOND DIVISION

[ G.R. No. 246477, October 02, 2019 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V.  
ARSENIO SALMERON Y AMARO AND MA. LOURDES ESTRADA Y  
CRUZ, ACCUSED-APPELLANTS.**

### D E C I S I O N

**LAZARO-JAVIER, J.:**

#### **The Case**

This appeal assails the Decision<sup>[1]</sup> dated July 31, 2018 of the Court of Appeals in CA-G.R. CR HC No. 09555 entitled "*People of the Philippines v. Arsenio Salmeron y Amaro and Ma. Lourdes Estrada y Cruz*," affirming the conviction of Arsenio Salmeron and Ma. Lourdes Estrada for violation of Section 5, Article II of Republic Act No. 9165 (RA 9165).<sup>[2]</sup>

#### **The Proceedings Before the Trial Court The Charge**

By Information<sup>[3]</sup> dated November 21, 2013, appellants Arsenio Salmeron and Ma. Lourdes Estrada were charged with violation of Section 5, Article II of RA 9165, viz:

That on or about the 19<sup>th</sup> day of November, 2013, in Quezon City, Philippines, said accused, conspiring together, confederating and mutually helping each other, without lawful authority did then and there willfully and unlawfully sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport or act as broker in said transaction, one (1) heat-sealed transparent plastic sachet containing two point nine two (2.92) grams of white crystalline substance containing METHAMPHETAMINE HYDROCHLORIDE, a dangerous drug.

CONTRARY TO LAW.

The case was raffled to the Regional Trial Court (RTC) - Branch 79, Quezon City.

On arraignment, appellants pleaded "not guilty."<sup>[4]</sup> Trial ensued.

During the trial, Police Officer 3 (PO3) Rolando Alieger, Jr. of the District Anti-Legal Drug-Special Operation Task Group (DAID-SOTG), Quezon City Police District (QCPD) testified for the prosecution. The defense, on the other hand, presented appellants and Roma Joy Paguio as witnesses.

#### **The Prosecution's Evidence**

On November 19, 2013, around 2:30 in the afternoon, the confidential informant reported to PO3 Alieger that he was able to order P15,000.00 worth of *shabu* from live-in partners "Sas and Yayo," nicknames of appellants Arsenio and Ma. Lourdes,

respectively.<sup>[5]</sup> Police Senior Inspector (PSI) Roberto Razon Sr. briefed the members of DAID-SOTG and organized a buy-bust operation.<sup>[6]</sup> PO3 Alieger got assigned as the poseur buyer while SPO1 Leonardo Dulay as immediate back-up. PO3 Alieger prepared the buy-bust money, i.e. two (2) genuine five hundred peso bills marked with his initials "RA" and twenty-eight (28) pieces of bond paper representing five hundred pesos (P500.00) or a total amount of P15,000.00.<sup>[7]</sup> They agreed on the pre-arranged signal: PO3 Alieger will scratch his nape indicating the sale had been consummated.<sup>[8]</sup>

Around 5 o'clock in the afternoon, the buy-bust team with the confidential informant proceeded to the designated meeting place at Area C, Sitio Kumunoy, Barangay Silangan Quezon City and waited for appellants in front of a basketball court.<sup>[9]</sup>

The confidential informant introduced PO3 Alieger to appellants as "Japz," the buyer of P15,000.00 worth of *shabu*. Arsenio asked PO3 Alieger "*ilan ba kukunin mo?*," and the latter replied "*yung usapan, halagang 15k.*" Arsenio asked for the money but PO3 Alieger demanded to see the *shabu* first. Arsenio then instructed his live-in partner, Ma. Lourdes to give the *shabu* to PO3 Alieger. Ma. Lourdes took out a plastic sachet containing the suspected *shabu* from her short pants and handed it over to PO3 Alieger. Upon receipt of the *shabu*, PO3 Alieger gave the buy-bust money to Ma. Lourdes and scratched his nape to signal the other team members that the sale had been consummated.<sup>[10]</sup>

SPO1 Dulay immediately arrested appellants and informed them of their constitutional rights. He frisked appellants and recovered from Ma. Lourdes the buy-bust money.<sup>[11]</sup>

At the *situs criminis*, PO3 Alieger marked the seized plastic sachet with "AS-RA-11/19/20." The place became crowded and the people were shouting invectives at the buy-bust team so the police officers, the confidential informant, and appellants had to leave and go to the barangay hall, particularly the Office of Barangay Captain Crissel Beltran. PO3 Alieger remained in custody of the seized item.<sup>[12]</sup>

At the barangay hall, SPO1 Dulay called PO3 Nilo Duazo for the inventory. PO3 Alieger turned over the seized item to PO3 Duazo who prepared the inventory and took photographs of the seized item in the presence of appellants and Barangay Captain Crissel Beltran.<sup>[13]</sup>

Thereafter, the team went to their office at QCPD. There, PO3 Duazo prepared a Request for Laboratory Examination. PO3 Duazo with the rest of the buy-bust team later on went to the Crime Laboratory at Camp Crame, Quezon City.<sup>[14]</sup> Forensic Chemist PCI Jocelyn Belen Julian received the request and specimen from PSI Roberto Razon Sr.<sup>[15]</sup> and conducted a qualitative examination thereon. Per Report No. D-350-13, the specimen was found positive for methamphetamine hydrochloride, a dangerous drug.<sup>[16]</sup>

The prosecution submitted the following evidence: 1) Joint Affidavit of Arrest;<sup>[17]</sup> 2) Coordination form;<sup>[18]</sup> 3) Photographs of the buy-bust money consisting of two (2) five hundred peso bills with serial numbers FL463139 and EB409219;<sup>[19]</sup> 4) Booking and Arrest Report;<sup>[20]</sup> 5) Request for Laboratory Examination;<sup>[21]</sup> 6) Chemistry

Report No. D-350-13;<sup>[22]</sup> 7) Chain of Custody;<sup>[23]</sup> 8) Turn over of confiscated/seized item;<sup>[24]</sup> 9) Inventory of the seized item;<sup>[25]</sup> and 10) Photographs of the seized item.<sup>[26]</sup>

### **The Defense's Evidence**

Ma. Lourdes testified that on November 19, 2013 around 9:30 in the evening, she was at home with her live-in partner Arsenio.<sup>[27]</sup> They were about to have dinner when three (3) men suddenly barged into their house looking for "Yangyang" and "Bolonggoy."<sup>[28]</sup>

The three (3) men took appellants to Camp Karingal. They asked if they knew Yangyang and Bolonggoy. Appellants answered "no." The next day, police officers Duazo and Mendoza of QCPD brought them to the barangay hall of Barangay Silangan Quezon City and were shown plastic sachets containing white crystalline substance. She said that the police officers planted the evidence on them and was part of a *palit-ulo* scheme.<sup>[29]</sup>

Arsenio corroborated Ma. Lourdes' testimony.<sup>[30]</sup>

The defense also presented Roma Joy Paguio, Ma. Lourdes' daughter. Roma testified that on November 19, 2013, she was at home with appellants when three (3) men entered and searched their home. When they did not find anything, they took appellants to the barangay hall. She accompanied appellants to the barangay hall where she saw plastic sachets of *shabu* already laid on top of a table.<sup>[31]</sup> After appellants talked with the barangay chairman, they boarded a vehicle. She received a call from her mother saying they were at Camp Karingal. She was surprised that her mother was charged with a crime involving drugs even though the police officers found nothing at the time they searched their house.<sup>[32]</sup>

### **The Trial Court's Ruling**

By Judgement<sup>[33]</sup> dated July 25, 2017, the trial court found appellants guilty as charged, viz:

WHEREFORE, judgment is hereby rendered finding accused ARSENIO SALMERON y AMARO and MA. LOURDES ESTRADA y CRUZ GUILTY beyond reasonable doubt of violation of Section 5, Article II of Republic Act No. 9165, and they are each sentenced to suffer life imprisonment and to pay a fine of Five Hundred Thousand Pesos (P500,000.00).

The Branch Clerk of Court is directed to immediately turn over to the Chief PDEA Crime Laboratory, the heat-sealed transparent plastic sachet with marking "AS-RA 11/19/13" containing white crystalline substance, covered by Chemistry Report No. D-350-13, to be disposed of in strict conformity with the provisions of R.A No. 9165 and its implementing rules and regulations on the matter.

The two (2) Five hundred peso bills with serial number(s) FL 463139 and EB 409219 which were used as buy-bust money in this case are forfeited in favor of the government and the Branch Clerk of Court is directed to remit them to the General Fund/Bureau of Treasury.

SO ORDERED.

It ruled there was a valid buy-bust operation resulting in the purchase of 2.92 grams of *shabu* (marked AS-RA 11/19/13).<sup>[34]</sup> Appellants' defense of denial and frame-up cannot outweigh the positive testimony of the prosecution witness.<sup>[35]</sup> 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. Finally, the absence of the Department of Justice (DOJ) and media representatives during the inventory and photograph of the seized item did not render the drugs inadmissible as evidence because the prosecution showed there was an unbroken chain of custody.<sup>[36]</sup>

### **The Proceedings Before the Court of Appeals**

On appeal, appellants faulted the trial court when it allegedly overlooked the police officers' non-compliance with Section 21 (a) of RA No. 9165, specifically their failure to provide justification why there were no representatives from the DOJ and the media during the inventory and photograph of the seized item.<sup>[37]</sup> Also, except for her receipt of the request for laboratory examination and the results of the same, there was no showing that the integrity and evidentiary value of the seized item were preserved at the time the same was turned over to forensic chemist PCI Julian until it was presented in court.<sup>[38]</sup>

For its part, the People, through Assistant Solicitor General Ma. Antonia Edita C. Dizon and State Solicitor Elvira Joselle R. Castro countered in the main: 1) the chain of custody rule was followed, thus, preserving the integrity and evidentiary value of the seized item; and 2) the absence of representatives from the DOJ and the media during the inventory and photograph of the seized item will not render the confiscated item inadmissible in evidence so long as the chain of custody was maintained.<sup>[39]</sup>

### **The Court of Appeals' Ruling**

By Decision<sup>[40]</sup> dated July 31, 2018, the Court of Appeals affirmed. It ruled that the prosecution sufficiently established the elements of illegal sale of dangerous drugs.<sup>[41]</sup> The testimony of PO3 Alieger carried with it the presumption of regularity in the performance of official functions of the buy-bust team<sup>[42]</sup> and there was a valid buy-bust operation leading to appellants' arrest and confiscation of the dangerous drugs in question. It also found that despite the absence of witnesses from the DOJ and the media, the arresting officers substantially complied with the chain of custody rule and the integrity of the *corpus delicti* was duly preserved.<sup>[43]</sup>

### **The Present Appeal**

Appellants now seek affirmative relief from the Court and plead anew for their acquittal.

For the purpose of this appeal, both appellants and the People adopted, in lieu of supplemental briefs, their respective briefs before the Court of Appeals.<sup>[44]</sup>

### **Issue**

Did the Court of Appeals err when it affirmed appellants' 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.<sup>[45]</sup>

To ensure the integrity of the seized drug item, the prosecution must account for each link in its chain of custody:<sup>[46]</sup> **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.<sup>[47]</sup>

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.<sup>[48]</sup>

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 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)

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The Implementing Rules and Regulations of RA 9165 further commands:

**Section 21.** (a) The apprehending officer/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:**