

SECOND DIVISION

[G.R. No. 245486, November 27, 2019]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RONALD JAIME DE MOTOR Y DANTES AND LYNIEL TORINO Y
RAMOS, ACCUSED;**

RONALD JAIME DE MOTOR Y DANTES, ACCUSED-APPELLANT.

D E C I S I O N

PERLAS-BERNABE, J.:

Assailed in this ordinary^[1] is the Decision^[2] dated September 4, 2018 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 09767, which affirmed the Decision^[3] dated June 23 2017 of the Regional Trial Court of Lipa City, Batangas, Branch 12 (RTC) in Criminal Case Nos. 0461-2012 and 0462-2012 finding accused-appellant Ronald Jaime De Motor y Dantes (accused-appellant) guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of Republic Act No. (RA) 9165,^[4] otherwise known as the "Comprehensive Dangerous Drugs Act of 2002."

The Facts

This case stemmed from two (2) Informations^[5] filed before the RTC accusing accused-appellant, among others, with the crimes of Illegal Sale and Illegal Possession of Dangerous Drugs, respectively defined and penalized under Sections 5 and 11, Article II of RA 9165. The prosecution alleged that at around 3:00 in the afternoon of August 13, 2012, acting on information received from a civilian asset, several officers of the Lipa City Police conducted a buy-bust operation against accused-appellant at a Jollibee branch in Barangay Mataas na Lupa, Lipa City, during which five (5) sachets containing dried marijuana leaves were recovered from him. Upon frisking accused-appellant, police officers found four (4) more sachets containing dried marijuana leaves inside one of his pockets. The officers then marked a total of nine (9) sachets and thereafter brought accused-appellant to their headquarters, where they inventoried^[6] and photographed^[7] the seized items in the presence of accused-appellant himself, as well as Pablo V. Levita (Levita), the Barangay Captain of Barangay Mataas na Lupa, and Michael Dominic Flores (Flores), a member of radio station 88.7. The seized items were then brought to the Philippine National Police-Batangas Provincial Crime Laboratory,^[8] where, after examination,^[9] tested positive for marijuana, a dangerous drug.^[10]

In defense, accused-appellant denied the charges against him, claiming that, on the date of the incident, he was seated at a table inside a Jollibee branch in Barangay Mataas na Lupa, Lipa City, when several policemen suddenly arrived, dragged him outside, and hauled him into a car for no apparent reason.^[11]

In a Decision^[12] dated June 23, 2017, the RTC found accused-appellant **guilty** beyond reasonable doubt of the crimes charged, and, accordingly sentenced him as follows: (a) in Criminal Case No. 0461-2012, to suffer the penalty of life imprisonment and to pay a fine in the amount of P500,000.00; and (b) in Criminal Case No. 0462-2012, to suffer the penalty of imprisonment for a period of twelve (12) years and one (1) day, as minimum, to fourteen (14) years, as maximum, and to pay a fine in the amount of P300,000.00.^[13] The trial court gave credence to the testimonies of the prosecution's witnesses and ruled that all the respective elements of the crimes of Illegal Sale and Illegal Possession of Dangerous Drugs had been sufficiently proved.^[14]

Aggrieved, accused-appellant appealed^[15] to the CA, arguing that he should be acquitted on account of the inconsistent and improbable testimonies of the prosecution witnesses and in view of the arresting officer's non-compliance with the chain of custody rule since a representative from the Department of Justice (DOJ) was not present to witness the inventory and photography of the purported drugs.^[16]

In a Decision^[17] dated September 4, 2018, the CA affirmed the Decision of the RTC.^[18] It found that the alleged inconsistencies in the testimonies of the prosecution witnesses pertained to trivial matters and minor details, and further held that the rule on chain of custody had been substantially complied with.^[19]

Hence, this appeal seeking that accused-appellant's conviction be overturned.

The Court's Ruling

The appeal is meritorious.

In cases for Illegal Sale and/or Illegal Possession of Dangerous Drugs under RA 9165,^[20] it is essential that the identity of the dangerous drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime.^[21] Failing to prove the integrity of the *corpus delicti* renders the evidence for the State insufficient to prove the guilt of the accused beyond reasonable doubt and, hence, warrants an acquittal.^[22]

To establish the identity of the dangerous drug with moral certainty, the prosecution must be able to account for each link of the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime.^[23] As part of the chain of custody procedure, the law requires, *inter alia*, that the marking, physical inventory, and photography of the seized items be conducted immediately after seizure and confiscation of the same. In this regard, case law recognizes that "[m]arking upon immediate confiscation contemplates even marking at the nearest police station or office of the apprehending team."^[24] Hence, the failure to immediately mark the confiscated items at the place of arrest neither renders them inadmissible in evidence nor impairs the integrity of the seized drugs, as the conduct of marking at the nearest police station or office of the apprehending team is sufficient compliance with the rules on chain of custody.^[25]

The law further requires that the said inventory and photography be done in the presence of the accused or the person from whom the items were seized, or his representative or counsel, as well as certain required witnesses, namely: (a) if **prior** to the amendment of RA 9165 by RA 10640,^[26] a representative from the media AND the DOJ, and any elected public official;^[27] or (b) if **after** the amendment of RA 9165 by RA 10640, an elected public official and a representative of the National Prosecution Service OR the media.^[28] The law requires the presence of these witnesses primarily "to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence."^[29]

As a general rule, compliance with the chain of custody procedure is strictly enjoined as the same has been regarded "not merely as a procedural technicality but as a matter of substantive law."^[30] This is because "[t]he law has been 'crafted by Congress as safety precautions to address potential police abuses, especially considering that the penalty imposed may be life imprisonment.'"^[31]

Nonetheless, the Court has recognized that due to varying field conditions, strict compliance with the chain of custody procedure may not always be possible.^[32] As such, the failure of the apprehending team to strictly comply with the same would not *ipso facto* render the seizure and custody over the items as void and invalid, provided that the prosecution satisfactorily proves that: (a) there is a justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items are properly preserved.^[33] The foregoing is based on the saving cause found in Section 21 (a),^[34] Article II of the Implementing Rules and Regulations (IRR) of RA 9165, which was later adopted into the text of RA 10640.^[35] It should, however, be emphasized that for the saving clause to apply, the prosecution must duly explain the reasons behind the procedural lapses,^[36] and that the justifiable ground for non-compliance must be proven as a fact, because the Court cannot presume what these grounds are or that they even exist.^[37]

Anent the witness requirement, non-compliance may be permitted if the prosecution proves that the apprehending officers exerted genuine and sufficient efforts to secure the presence of such witnesses, albeit they eventually failed to appear. While the earnestness of these efforts must be examined on a case-to-case basis, the overarching objective is for the Court to be convinced that the failure to comply was reasonable under the given circumstances.^[38] Thus, mere statements of unavailability, absent actual serious attempts to contact the required witnesses, are unacceptable as justified grounds for non-compliance.^[39] These considerations arise from the fact that police officers are ordinarily given sufficient time - beginning from the moment they have received the information about the activities of the accused until the time of his arrest - to prepare for a buy-bust operation and consequently, make the necessary arrangements beforehand, knowing fully well that they would have to strictly comply with the chain of custody rule.^[40]

Notably, the Court, in *People v. Miranda*,^[41] issued a definitive reminder to prosecutors when dealing with drugs cases. It implored that "[since] the [procedural] requirements are clearly set forth in the law, x x x the State retains the positive duty to account for any lapses in the chain of custody of the drugs/items seized from the accused, regardless of whether or not the defense raises the same

in the proceedings *a quo*; otherwise, it risks the possibility of having a conviction overturned on grounds that go into the evidence's integrity and evidentiary value, albeit the same are raised only for the first time on appeal, or even not raised, become apparent upon further review."^[42]

In this case, there was a deviation from the witness requirement as the conduct of the inventory and photography were not witnessed by a representative from the DOJ. This may be easily gleaned from the Inventory of Confiscated Drugs/Seized^[43] which only confirms the presence of an elected public official, *i.e.*, Levita, and a representative from the media, *i.e.*, Flores. Such finding is confirmed by the testimony of Senior Police Officer 1 Arnold T. Quinio (SPO1 Quinio) on cross-examination, to wit:

Cross-Examination of SPO1 Quinio

[Atty. Ismael H. Macasaet]: How about the DOJ representative?

[SPO1 Quinio]: There was **no DOJ representative** came to the police station, sir.^[44] (Emphasis supplied)

As earlier stated, it is incumbent upon the prosecution to account for the absence of a required witness by presenting a justifiable reason therefor or, at the very least, by showing that genuine and sufficient efforts were exerted by the apprehending officers to secure his or her presence. Here, records show that the prosecution **failed to acknowledge**, much less justify, the absence of a DOJ representative. While SPO1 Quinio admitted on cross examination that the presence of a DOJ representative was not obtained, he did not offer any explanation for such lapse; neither did the prosecution conduct a re-direct examination to enable him to address the oversight.^[45]

In view of such unjustified deviation from the chain of custody rule, the Court is therefore constrained to conclude that the integrity and evidentiary value of the items purportedly seized from accused-appellant were compromised, which consequently warrants his acquittal.

WHEREFORE, the appeal is **GRANTED**. The Decision dated September 4, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 09767 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Ronald Jaime De Motor y Dantes is **ACQUITTED** of the crimes charged. The Director of the Bureau of Corrections is ordered to cause his immediate release, unless he is being lawfully held in custody for any other reason.

SO ORDERED.

A. Reyes, Jr., Hernando, Inting, and Zalameda, JJ., concur.*

* Designated Additional Member per Special No. 2727 dated October 25, 2019.

^[1] See Notice of Appeal dated September 28, 2018; *rollo*, pp. 19-21.

^[2] *Id.* at 3-18. Penned by Associate Justice Pedro B. Corales with Associate Justices