

SECOND DIVISION

[G.R. No. 240749, December 11, 2019]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
GIOVANNI DE LUMEN Y LADLAGARAN AND MAURA ARANZASO Y
MENDOZA, ACCUSED,**

GIOVANNI DE LUMEN Y LADLAGARAN, ACCUSED-APPELLANT.

R E S O L U T I O N

INTING, J.:

This appeal seeks to set aside the Decision^[1] dated September 29, 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08754 which affirmed the Decision^[2] dated March 23, 2015 of Branch 23, Regional Trial Court (RTC), Trece Martires City, Cavite finding Giovanni de Lumen (appellant) guilty of violating Section 12, Article II of Republic Act No. (RA) 9165.

The Antecedents

In Criminal Case No. TMCR-350-09, appellant and co-accused Arcangel Lapiz (Arcangel) were charged with violation of Section 12, Article II of RA 9165 or Illegal Possession of Drug Paraphernalia in an Information^[3] that reads:

That on or about the 11th day of September 2009 in the Municipality of Gen. Trias, Province of Cavite, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law, conspiring, confederating and mutually aiding each other did then and there, willfully, unlawfully and feloniously have in their possession, control and custody one (1) strip of aluminum foil, two (2) pcs. disposable lighter, four (4) pcs. Aluminum tooter, and three (3) transparent plastic sachets consider under Section 12, R.A. 9165 as an equipment, instrument, apparatus or paraphernalia fit or intended for smoking, consuming or introducing dangerous drugs into the body, in violation of the said provisions of Republic Act No. 9165 otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

CONTRARY TO LAW.^[4]

Meanwhile, co-accused Maura Aranzaso (Maura) was charged with violation of Section 5, Article II of RA 9165 or Illegal Sale of Dangerous Drugs in Criminal Case No. TMCR-352-09. The accusatory portion of the Information^[5] reads:

That on or about the 11th day of September 2009 in the Municipality of Gen. Trias, Province of Cavite, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by

law, did then and there, willfully, unlawfully and feloniously sell, deliver and distribute to a poseur buyer one (1) sealed transparent plastic sachet containing zero point zero three (0.03) grams of Methamphetamine Hydrochloride, commonly known as "shabu," a dangerous drug, in violation of the provisions of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

CONTRARY TO LAW.^[6]

Version of the Prosecution

On September 11, 2009, Police Officer II Victor O. Tampis (PO2 Tampis) conducted a buy-bust operation in the house of Maura in Marycris Complex Brgy. Pasong Camachile 2, General Trias, Cavite following the numerous complaints they received about the illegal activities of Maura. According to PO2 Tampis, a text message from a concerned citizen was reported to the Mayor's office about the illegal trade of Maura. Thereafter, the Municipal Police station of General Trias, Cavite received a document from the Mayor's office indicating therein the persons selling *shabu*, and Maura was listed on top of the watch list.^[7]

In preparation, PO2 Tampis, the designated *poseur*-buyer, placed his initials "VOT" on the three pieces of P100-bill as buy-bust money. PO2 Lord Allan Poniente (PO2 Poniente), PO1 Amor Estrada (PO1 Estrada), and Senior Police Officer III Jose Mendoza Eusebio (SPO3 Eusebio), among others, served as the back-up officers.

At the entrance of Maura's house, the confidential informant introduced PO2 Tampis to Maura as a "scorer" of *shabu*. PO2 Tampis bought one plastic sachet of suspected *shabu* from Maura and handed the marked money to her. The sale having been consummated, PO2 Tampis introduced himself as a police officer, arrested Maura, and retrieved the marked money from the latter. When a commotion ensued, PO2 Poniente and PO1 Estrada immediately rushed to the scene where they saw the appellant and Arcangel sniffing *shabu* inside Maura's residence. They arrested them and recovered the following drug paraphernalia: one strip of aluminum foil with traces of white crystalline substance; two disposable lighters; four pieces aluminum tooter (rolled aluminum foil) with traces of white crystalline substance; and three transparent plastic sachets with traces of white crystalline substance.^[8]

After the conduct of the inventory, the seized items were submitted to the crime laboratory for examination. The buy-bust item confiscated from Maura, as well as the drug paraphernalia recovered in the possession of the appellant and Arcangel, tested positive for methamphetamine hydrochloride.^[9]

Version of the Defense

In defense, appellant denied the charge. He claimed that on the date and time in question, he was at the house of Maura to get a water container. He was about to leave when several persons entered the house and arrested him along with Arcangel and a certain Elaine. Thereafter, he was brought to the police station of General Trias in Cavite where he was charged with possession of illegal drugs and illegal drug paraphernalia.^[10]

Co-accused Maura corroborated the appellant's testimony. She alleged that between 10:00 p.m. and 11:00 p.m., she was in her residence when five persons arrived. Three of them entered her house and made a search. After which, they tied their hands with wire and forced them to board a vehicle. Later, they were brought to Imus and were subjected to a drug test before going to the Bacao police station. She also denied the charges against her.^[11]

In its Decision^[12] dated March 23, 2015, the RTC found Maura and appellant guilty as charged. Thus:

WHEREFORE, finding the guilt of the accused Giovanni de Lumen and Maura Aranzaso beyond reasonable doubt, Giovanni de Lumen is hereby meted the penalty of imprisonment from six (6) months and one (1) day to four (4) years and a fine of ten thousand (P10,000.00) Pesos for Violation of Sec. 12, Art. II, R.A. 9165. While Maura Aranzaso is meted the penalty of *Reclusion perpetua* from twenty (20) years and one (1) day to forty (40) years of imprisonment and to pay a fine of seven hundred thousand pesos (P700,000.00) only.

The other accused Arcangel Lapiz died during the trial of this case.

SO ORDERED.^[13]

The RTC found that all the elements of illegal sale of drugs has been established in this case, to wit: (1) Maura sold drugs to PO2 Tampis, the *poseur*-buyer; (2) the sachet of drug and the marked money have been positively identified by PO2 Tampis; (3) prior to the buy-bust operation, there was a coordination made by the police with the Philippine Drug Enforcement Agency; and (4) after the arrest of all the accused, an inventory of the seized items was conducted. With respect to appellant, it noted that he was caught red-handed possessing and using illegal drug and paraphernalia. The RTC refused to give credence to his alibi and instead took into consideration of the fact that the appellant was using drugs at the time of his arrest and tested positive for drug use.^[14]

Both Maura and appellant filed a notice of appeal^[15] from the trial court's Decision.

In a Decision^[16] dated September 29, 2017, the CA upheld the conviction of the appellant, but acquitted his co-accused Maura on the ground of reasonable doubt. The dispositive portion of the CA's decision reads:

WHEREFORE, the foregoing considered, the appeal is PARTLY GRANTED. The consolidated Decision dated 23 March 2015 of the Regional Trial Court (Branch 23, Trece Martires City, Cavite) in Criminal Case Nos. TMCR-350-09 and TMCR-352-09 is: (1) AFFIRMED with respect to accused-appellant Giovanni de Lumen; and, (2) REVERSED and SET ASIDE insofar as accused appellant Maura Aranzaso y Mendoza is concerned and, who, by virtue of this verdict, is ACQUITTED on reasonable doubt. Accordingly, the Director of the Correctional Institution for Women in Mandaluyong City is directed to cause the immediate release of accused-appellant Aranzaso, unless the latter is being lawfully

held for another cause, and to inform this Court of the date of her release or reason for her continued confinement, as the case may be, within five (5) days from notice. The seized drug paraphernalia are confiscated and ordered destroyed in accordance with law.

SO ORDERED.^[17]

Appellant moved for a partial reconsideration^[18] of the Decision, but the CA denied it in a Resolution^[19] dated February 14, 2018. The CA declared:

Accused-appellant De Lumen, thus, filed the instant Motion for Partial Reconsideration wherein he reiterated his arguments that there exists a serious doubt as to the identity of the *corpus delicti* as the chain of custody was not properly followed and that his arrest was illegal as he was not the subject of the buy-bust operation.

Notably, these matters have already been adequately considered and discussed in Our [D]ecision. The pieces of evidence consistently show that accused-appellant De Lumen was caught *in flagrante delicto* using prohibited drugs and was in possession of illegal drug paraphernalia. It was also established that PO1 Estrada confiscated the said paraphernalia, placed markings thereon, and made an inventory of the seized items. Thereafter, the paraphernalia were sent to the PNP Crime Laboratory for forensic examination. With these proven facts, accused-appellant De Lumen's guilt has been established beyond reasonable doubt.

WHEREFORE, the foregoing considered, the Motion for Partial Reconsideration is DENIED.

SO ORDERED.^[20]

Hence, this appeal.^[21]

In a Resolution^[22] dated September 17, 2018, this Court required the parties to submit their respective supplemental briefs, if they so desire. The Office of the Solicitor General, in its Manifestation In Lieu of Supplemental Brief^[23] dated January 10, 2019, informed the Court that it elects to dispense with the filing of a supplemental brief considering that all relevant issues/arguments in the case have been adequately adduced in its Brief for the Appellee dated July 3, 2017. Similarly, in his Manifestation In Lieu of Supplemental Brief^[24] dated January 18, 2019, appellant opted not to file a supplemental brief since he had exhaustively discussed the assigned errors in the Brief for the Accused-Appellant's^[25] dated March 3, 2017.

The Court now resolves whether the guilt of appellant was proven beyond reasonable doubt. Central to this issue is the determination of whether the integrity and evidentiary value of the evidence were duly preserved.

Principally, the chain of custody rule is but a variation of the principle that real evidence must be authenticated prior to its admission into evidence. To establish a chain of custody sufficient to make evidence admissible, the proponent needs only to prove a rational basis from which to conclude that the evidence is what it claims

it to be. Simply put, the prosecution must offer sufficient evidence from which the trier of fact could reasonably believe that an item still is what the government claims it to be. In the prosecution of illegal drugs, in particular, the well-established federal evidentiary rule in the United States is that when the evidence is not readily identifiable and is susceptible to alteration by tampering or contamination, courts require a more stringent foundation entailing a chain of custody of the item with sufficient completeness to render it improbable that the original item has either been exchanged with another or been contaminated or tampered with.^[26]

Here, what is involved are disposable and fungible objects such as aluminum foil, lighters, and aluminum tooters which are highly susceptible to substitution and alteration. Given the nature of these items, stricter compliance with the rule on the chain of custody is expected. Unfortunately, the present case failed to pass this scrutiny.

The elements that must be established to sustain convictions for illegal possession of equipment, instrument, apparatus and other paraphernalia for dangerous drugs under Section 12 are: (1) possession or control by the accused of any equipment, apparatus or other paraphernalia fit or intended for smoking, consuming, administering, injecting, ingesting or introducing any dangerous drug into the body; and (2) such possession is not authorized by law.^[27]

Section 21, Article II of RA 9165, as amended by RA 10640, provides for the custody and disposition of confiscated, seized, and/or surrendered drugs and/or drug paraphernalia:

Sec. 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 dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment **shall, immediately after seizure and confiscation**, conduct a physical inventory of the seized items 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, with an elected public official and a representative of the National Prosecution Service or the media who shall be required to sign the copies of the inventory and be given a copy thereof: Provided, That the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures: Provided, finally, That noncompliance of these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the*