

# FIRST DIVISION

[ G.R. No. 241251, December 10, 2019 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SAMMY GLOBA Y COTURA, A.K.A. "JR" AND LOUIE ANADIA Y LUGARPO, ACCUSED-APPELLANTS.**

## DECISION

**REYES, J. JR., J.:**

This is an appeal from the Decision<sup>[1]</sup> dated March 15, 2018 of the Court of Appeals in CA-G.R. CR-H.C. No. 09201, which affirmed the Decision<sup>[2]</sup> dated January 10, 2017 of the Regional Trial Court (RTC) of Quezon City, Branch 82, in Criminal Case No. GL-Q-12-177922, convicting accused-appellants Sammy Globa y Cotura (Sammy) and Louie Anadia y Lugarpo (Louie) for violation of Section 5, Article II of Republic Act (R.A.) No. 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002."

### The Facts

This case is rooted from an Information, charging accused-appellants of illegal sale of dangerous drugs as follows:

That on or about the 31<sup>st</sup> day of July 2012, in Quezon City, Philippines, the above-named accused, conspiring together, confederating with and mutually helping with one another, not being authorized by law to sell, dispense, deliver, transport or distribute any dangerous drug, did then and there wilfully, unlawfully and knowingly sell, dispense, deliver, transport, distribute or act as broker in the said transaction, three (3) heat-sealed transparent sachets, each containing the following[, ] to wit:

(51.10) grams marking "JAM-SCG-0731-12"  
(22.86) grams marking "JAM-SCG-1-07-31-12"  
(23.95) gram[s] marking "JAM-SCG-2-07-31-12"  
(97.91) grams total weight

of white crystalline substance containing Methylamphetamine Hydrochloride, a dangerous drug.

CONTRARY TO LAW.<sup>[3]</sup>

The prosecution evidence tends to establish that on July 30, 2012, at around 5:00 p.m., the District Anti-Illegal Drugs - Special Operation Task Group received a report from a confidential informant about the illegal drug activities of an alias "JR," later on identified as accused-appellant Sammy, along Cotabato St., Barangay Ramon Magsaysay, Quezon City. Acting upon said information, a buy-bust team was

formed, wherein PO2 Jomar Manaol (PO2 Manaol) was tasked to act as poseur-buyer, while PO2 Jeffrey Dela Puerta, together with police officers Hernandez, Itom, Collado, and Ang, was assigned as a blocking and arresting officer.<sup>[4]</sup>

The confidential informant called up Sammy and ordered 100 grams of *shabu*. Sammy set the deal on the following day, July 31, 2012, at around 1:00 p.m., along Cotabato St., Barangay Ramon Magsaysay, Quezon City.<sup>[5]</sup>

Around 11:00 a.m. of July 31, 2012, the buy-bust team, together with the informant, proceeded to the target area. Thereat, PO2 Manaol was met by Sammy, who asked if he has the money with him. Sammy then invited PO2 Manaol to his house to show the latter the items. Upon arrival at his house, Sammy showed the items to PO2 Manaol and introduced him to accused-appellant Louie. As instructed by Sammy, PO2 Manaol handed the money to Louie and, thereafter, Sammy handed the illegal drugs to PO2 Manaol. At that instance, PO2 Manaol made a covert call to the team and opened the house door so the team could easily enter the premises.<sup>[6]</sup>

Upon the rest of the team's arrival, they introduced themselves as police officers. PO2 Manaol arrested Louie and recovered from the latter the buy-bust money, while PO2 Dela Puerta arrested Sammy.<sup>[7]</sup>

Thi1iy minutes thereafter, Barangay Captain Eduardo Fimalino and Dennis Datu of DZMM arrived at the place of arrest. The inventory, marking, and taking of photographs were then conducted thereat in the presence of the accused-appellants and said witnesses.<sup>[8]</sup>

Thereafter, the team, together with the accused-appellants, proceeded to the station. Thereat, SPO1 Corina Angeles prepared the Request for Laboratory Examination, Coordination Form, Inventory of Seized Items, Chain of Custody Form, Arrest and Booking Sheet, and the Letter-Referral to the Office of the City Prosecutor of Quezon City. Then, accused appellants and the seized items were brought to Camp Crame for examination. The examination conducted by PCI Alejandro De Guzman yielded a positive result for the presence of methamphetamine hydrochloride or *shabu*, dangerous drugs.<sup>[9]</sup>

The defense presented a different version of the facts. Louie testified that on the day of his arrest, he was at Sammy's house for a drinking session. They fell asleep waiting for someone when suddenly, they heard somebody knock on the door and, simultaneously, about eight to nine armed persons entered and ordered them to lie on the floor face down. These men started looking for something around the house. Then, they were brought to a car and then back to the house where they were again told to lie on the floor face down. *Shabu* was then placed in front of them and, suddenly, people from the media arrived. Thereafter, they were brought to Camp Crame.<sup>[10]</sup>

The RTC found accused-appellants guilty as charged. The trial court ruled that between the positive identification by the poseur-buyer and the denial of the accused-appellants, the former prevails. The RTC also found that the prosecution was able to establish an unbroken chain of custody, upholding, thus, the identity and integrity of the seized items. It disposed:

**WHEREFORE**, premises considered, judgment is hereby rendered finding accused **Sammy Globa y Cotura** and **Louie Anadia y Lugarpo** "**Guilty**" beyond reasonable doubt of violation of Section 5, Article II of R.A. 9165.

Accordingly, this Court sentences both accused **Sammy Globa Y Cotura** and **Louie Anadia y Lugarpo** to suffer the penalty of **Life Imprisonment** and to each pay a Fine in the amount of Five hundred Thousand (P500,000.00) Pesos without eligibility for parole in accordance with R.A. 9346.

The Branch Clerk of Court is hereby directed to transmit to the Philippine Drug Enforcement Agency (PDEA) the dangerous drugs subject of this case for proper disposition and final disposal.

**SO ORDERED.**<sup>[11]</sup> (Emphasis in the original)

On appeal, the CA affirmed the RTC Decision in its entirety:

**WHEREFORE**, in the light of the foregoing, the instant appeal is DENIED. Consequently, the decision appealed from is AFFIRMED.

**IT IS SO ORDERED.**<sup>[12]</sup> (Emphasis in the original)

Hence, this appeal seeking the reversal of the conviction.

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

This Court is guided by the important legal precept that in every criminal case where the accused enjoys the presumption of innocence, he is entitled to acquittal unless his guilt is shown beyond reasonable doubt.<sup>[13]</sup> Although this Court has repeatedly expressed through its decisions its consistent support in the State's campaign against illegal drugs, it does so with prudent regard to the most basic fundamental rights of every individual in our democratic society. Thus, the burden of the reviewing court is really to see to it that no man is punished unless the proof of his guilt be beyond reasonable doubt.<sup>[14]</sup>

Accused-appellants, in this case, were charged, tried, and convicted of illegal sale of *shabu*. In prosecutions involving the illegal sale of dangerous drugs, the following elements must be established: (1) the identities of the buyer, seller, object, and consideration; and (2) the delivery of the thing sold and payment for it.<sup>[15]</sup> As in any case involving dangerous drugs, it is essential that the identity of the prohibited drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime.<sup>[16]</sup> For this purpose, the law provides for mandatory requirements for the police officers to comply with to preserve the identity and evidentiary value of the illegal drugs and/or paraphernalia from their seizure, initial custody, to their handling and presentation in court.

As the crime in this case was allegedly committed on July 31, 2012, the original text of Section 21(1), Article II of R.A. No. 9165 is applicable, which states:

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 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[.]

Supplementing this provision is Section 21(a) of the Implementing Rules and Regulations (IRR) of R.A. No. 9165, which states:

(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: 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, further, that non compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items[.]

The Court has consistently ruled and stressed that strict adherence to the above-stated procedure is mandatory as this was set forth as a reasonable safeguard to the possibility of contamination, alteration, or substitution, - whether intentional or unintentional - and even planting of evidence, in drug-related cases considering the unique characteristics of narcotic substances.

This, of course, is not to say that the Court expects perfect adherence to the procedure at all times. To be sure, we are not unaware of the fact that strict compliance with said mandatory requirements is not always possible under varied field conditions.<sup>[17]</sup> Hence, the above-quoted provisions, as well as our case laws, provide for a saving clause in case of unavoidable deviation from the mandatory procedure. Non-compliance with said requirements under justifiable grounds will not render void and invalid the seizure and custody over the seized items as long as the

integrity and evidentiary value of said items are properly preserved by the apprehending officers. For purposes of applying the saving clause, the prosecution must recognize the police officers' lapse/s, present a justification for such lapse/s and an explanation that reasonable efforts were exerted to comply with the procedure to no avail.<sup>[18]</sup>

In this case, the police officers unjustifiably failed to comply with the mandatory requirements of Section 21 of R.A. No. 9165 and its IRR.

The above-cited provisions clearly require the apprehending team to "immediately after seizure and confiscation" conduct the marking, inventory, and taking of photographs of the seized items. Further, it is required that said steps be undertaken in the presence of any elected public official and a representative from the media and the Department of Justice (DOJ) who are required to sign the inventory and given copies thereof. This Court has, in no ambiguous language, explained the necessity of having these witnesses, not only during the inventory, but more importantly, at the time of apprehension and seizure. In fact, it is at the time of arrest and confiscation when the insulating presence of the witnesses is needed, as it is their presence at such stage that would foreclose the pernicious practice of planting of evidence or compromising the integrity of the same. To be sure, this is a requirement that the buy-bust team could easily comply with given the nature of a buy-bust operation as supposedly a well-planned activity.<sup>[19]</sup>

In *People v. Tomawis*,<sup>[20]</sup> the Court expounded on the importance of this requirement:

It is [during this initial stage of apprehension and confiscation wherein] the presence of the three witnesses is most needed, as it is their presence at the time of seizure and confiscation that would belie any doubt as to the source, identity, and integrity of the seized drug. If the buy-bust operation is legitimately conducted, the presence of the insulating witnesses would also controvert the usual defense of frameup as the witnesses would be able to testify that the buy-bust operation and inventory of the seized drugs were done in their presence in accordance with Section 21 of RA 9165.

The practice of police operatives of not bringing to the intended place of arrest the three witnesses, when they could easily do so - and "calling them in" to the place of inventory to witness the inventory and photographing of the drugs only after the buy-bust operation has already been finished - does not achieve the purpose of the law in having these witnesses prevent or insulate against the planting of drugs.

To restate, the presence of the three witnesses at the time of seizure and confiscation of the drugs must be secured and complied with at the time of the warrantless arrest; such that they are required to be at or near the intended place of the arrest so that they can be ready to witness the inventory and photographing of the seized and confiscated drugs "immediately after seizure and confiscation."<sup>[21]</sup>

This is especially true in cases where there is a question as to whether or not a buy-bust operation actually took place as when the accused vehemently denies the