

FIRST DIVISION

[G.R. No. 233321, December 05, 2019]

PEOPLE OF THE PHILIPPINES APPELLEE, VS. ROBERTO F. VALDEZ APPELLANT.

DECISION

LAZARO-JAVIER, J.:

The Case

This appeal^[1] assails the Decision^[2] of the Court of Appeals in CA-G.R CR HC 01277-MIN dated March 13, 2017 affirming petitioner's conviction for violation of Section 5 and Section 11, Article II of Republic Act 9165 (RA 9165).^[3]

The Proceedings Before the Trial Court

The Charge

By Informations dated July 25, 2009, appellant Roberto Valdez y Ferrer was charged with violation of Section 5 and Section 11 Article II of RA 9165, thus:

Criminal Case No. Crc 261-2009

That on or about 25 July 2009, in the City of Panabo, Davao, and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, willfully, unlawfully and knowingly had in his possession, control and custody two (2) bundles of dried marijuana leaves wrapped in newspaper, a dangerous drug, with an estimated total weight of 787.4550 grams.

CONRRARY TO LAW.^[4]

Criminal Case No. Crc 262-2009

That on or about July 25, 2009, in the City of Panabo, Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, willfully, unlawfully and knowingly traded, sold and delivered two (2) packs of dried marijuana leaves wrapped in newspaper, a dangerous drug, to PCPAG Glen B. Abellana who was acting as a poseur buyer in a legitimate buy bust operation after taking and receiving two (2) marked money of One Hundred peso bills (P100.00) with Serial Number BA 282683 and Serial Number TC315703 or a total of Two Hundred Pesos (P200.00).

CONTRARY TO LAW.^[5]

The consolidated cases were raffled to the Regional Trial Court (RTC) - Branch 34, Panabo City, Davao del Norte.

On arraignment, petitioner pleaded *not guilty* to both charges.^[6]

During the trial, SPO1 Romeo Obero, PCI Lina Ligad Avelino, PO3 Adonis Estenzo, and Panabo City Auxilliary Group member (PCPAG) Glen Abellana testified for the prosecution, while appellant testified as lone witness for the defense.^[7]

The Prosecution's Version

PO3 Adonis Estenzo testified that on July 24, 2009, PCPAG Abellana relayed to him a report from an informant that a certain Roberto Valdez from Homeland Subdivision was selling illegal drugs.^[8] He instructed PCPAG Abellana to coordinate with his informant and set-up a sale with Valdez. For his part, he coordinated with the Philippine Drug Enforcement Agency (PDEA) to arrange a buy-bust operation. During the briefing, he designated PCPAG Abellana as poseur-buyer and marked two (2) P100 bills for that purpose.^[9]

On July 25, 2009, around 1 o'clock in the morning, the team proceeded to Purok 10, Homeland Subdivision, Barangay DAPCO, Panabo City. PCPAG Abellana and his informant headed to appellant's house while the rest of the team stayed near the area.^[10]

From his position, he saw a man carrying a paper bag, later identified as appellant Roberto F. Valdez. The man met with PCPAG Abellana and the informant and they conversed. PCPAG Abellana later handed money to appellant who, in turn, also handed something to the former. PCPAG Abellana flashed the pre-arranged signal which thus alerted the team to close in and arrest appellant. He frisked appellant and recovered two (2) marked P100 bills. Upon checking the contents of the paper bag, he discovered two (2) big bundles of suspected marijuana. PCPAG Abellana handed over the two (2) packs of suspected marijuana he bought from appellant to him which he marked with his initials "AE" at the place of arrest. The team then brought appellant to Panabo Police Station.^[11]

He kept the seized items in his possession from the time of the arrest until they arrived at the Panabo Police Station. He presented the seized items to Investigator PO3 Johnny S. Calamba who prepared the evidence tag which he (PO3 Estenzo) signed in the presence of the accused. Thereafter, he took the items back and secured them in the steel cabinet for safekeeping.^[12]

Around 9 to 10 o'clock in the morning of the same day, they did the inventory and took photographs of the seized items in the presence of the insulating witnesses from the media, the PDEA and an elected official from the barangay. Thereafter, he filed the case before the Panabo Prosecution's Office and prepared a request for laboratory examination. He then brought appellant and the seized items to the PNP Crime Laboratory in Tagum City.^[13]

PCPAG Glen Abellana testified that he was the companion of PO3 Estenzo during the buy-bust operation. He was also a member of the PCPAG, assigned at the

Intelligence Operative of PNP Panabo City. He essentially corroborated PO3 Estenza's narration of facts and supplemented details as poseur-buyer.^[14]

His informant introduced him to appellant as an interested buyer when they met outside appellant's house. He told appellant he wanted to buy Php200 worth to which appellant agreed. Thereafter, he handed over the two (2) marked P100 bills which appellant slid into his pocket before handing over two (2) packs covered with newspaper. He opened one of them and found dried leaves which he believed to be marijuana. After checking the contents, he asked appellant if he had more. Appellant answered in the affirmative and said he had more stocks in the paper bag he was carrying.^[15]

Thereafter, he signaled the rest of the team to rush to the place of transaction and arrest appellant. PO3 Estenzo frisked appellant, recovered the marked money from appellant's pocket and seized two (2) bundles of suspected marijuana from the paper bag. He also marked the seized items with his initials in the presence of the accused at the place of arrest.^[16]

He further corroborated PO3 Estenzo's testimony on the tagging, inventory and photograph of the seized items done in the presence of insulating witnesses from the media, DOJ, PDEA, and an elected official, and on transporting the accused and the seized items to the PNP Crime Laboratory in Tagum City.^[17]

SPO1 Romeo Obero and **PCI Lina Ligad Avelino** testified on the delivery to and examination of the seized items at the crime laboratory. **SPO1 Obero** stated that he weighed the items, affixed his signature thereto, and indicated the corresponding weight of each item surrendered to him by PO3 Estenzo before turning it over to **PCI Avelino** for qualitative examination. For her part, PCI Avelino acknowledged her receipt of the seized items and the request for examination. Her tests confirmed that the seized items were marijuana.^[18]

The prosecution offered the following documentary evidence: Request for Laboratory Examination dated July 25, 2009; Chemistry Report D-051-2009; One (1) big bundle of dried marijuana leaves wrapped in newspaper with marking "AE-1"; One (1) small bundle of dried marijuana leaves wrapped in newspaper with marking "AE-2"; one (1) pack of dried marijuana leaves wrapped in newspaper with marking "AE-3"; one (1) pack of dried marijuana leaves wrapped in newspaper with marking "AE-4"; Two (2) P100 bills marked money; Inventory of Property Seized; Eight (8) pictures taken during the inventory of property seized; and Two (2) pages for Blotter Entry No. 889 and 891 entered on July 25, 2009.^[19]

The Defense's Evidence

Appellant **Roberto F. Valdez** invoked denial and frame-up. He testified that on July 25, 2009 around 12:30 past midnight, he was sleeping in his parents' house at DAPCO, Panabo City when a loud thud coming from the door woke him up. He stood up to see what was happening and saw two (2) unknown persons inside the house who handcuffed him. One pointed a gun at him, while the other searched his room. Thereafter, they boarded him onto a motorcycle and brought him to the police station for investigation.^[20]

At the police station, he learned that police assets Tata Caballero and Jojo Bersabal were the earlier unknown persons who searched his room and handcuffed him. He was certain of their identity, but did not file a complaint against them. He, nonetheless, admitted that he held no grudges against the two (2) police assets.^[21]

Too, it was his first time to see the bundles and packs of marijuana at the police station. Thus, he surmised that the police officers planted these items when they went inside his house supposedly to search the place.

The Trial Court's Ruling

As borne by its Decision dated November 29, 2013,^[22] the trial court rendered a verdict of conviction, viz:

WHEREFORE, judgment is hereby rendered as follows:

- a. Finding accused *Roberto F. Valdez* in Criminal Case No. CrC 261-2009 guilty beyond reasonable doubt of illegal possession of marijuana defined and penalized under Section 11 of Republic Act No. 9165. Accordingly, he is meted to suffer an indeterminate penalty of imprisonment of twelve (12) years and one day as minimum period to thirteen (13) years as maximum period and to pay fine in the amount of P300,000.00;
- b. Finding accused *Roberto F. Valdez* in Criminal Case No. CrC 262-2009 guilty beyond reasonable doubt of illegally selling marijuana defined and penalized under Section 5 of Republic Act No. 9165. Accordingly, he is sentenced to suffer the penalty of life imprisonment and to pay fine in the amount of P500,000.00.

In the service of his sentences, accused is entitled to the full credit of his preventive imprisonment pursuant to the provisions of Art. 29 of the Revised Penal code.

Accused shall serve his sentences at the Davao Prison and Penal Farm, B.E. Dujali, Davao del Norte.

The subject two (2) packs and two (2) bundles of marijuana are ordered released to PDEA for its proper disposition in accordance with applicable rules and regulation.

SO ORDERED.^[23]

It ruled that all the elements of the crime were sufficiently established, the seized items and their evidentiary value were properly preserved, and the *corpus delicti* was positively identified.

The Proceedings Before the Court of Appeals

On appeal, petitioner faulted the trial court for rendering the verdict of conviction despite the prosecution's purported failure to establish the integrity and identity of

the seized item beyond reasonable doubt, and to observe the chain of custody rule, viz.:

First, PO3 Estenzo testified that he found in appellant's possession the two (2) packs of marijuana subject of the sale after he frisked the latter. Since those items were not delivered to poseur-buyer, as they remained in appellant's possession, the alleged sale of dangerous drugs could not have been consummated.^[24]

Second, the Information alleged that appellant possessed 787.4550 grams of marijuana, while SPO1 Obrero testified that the total weight was 680.00 grams only. On the other hand, the marijuana appellant allegedly sold weighed 10.95 grams based on the Informations, while the chemistry report listed the two (2) packs at 5.5 grams.^[25]

Third, the Inventory indicated that the seized items were "dried marijuana leaves," while the markings on the specimen during qualitative examination indicated "marijuana fruiting tops." With this inconsistency, the identity and integrity of the seized items cannot be deemed proven with certainty.^[26]

Fourth, testimonies of PO3 Estanzo and PCPAG Abellana had material inconsistencies. In particular, PCPAG Abellana said he opened the packs allegedly handed by appellant, but PO3 Estenzo did not mention anything about the packs being opened.^[27]

Finally, there were no marking, sealing, and inventory of the seized items at the place of arrest immediately after the operation, as they were done at the police station; no photographs were taken at the crime scene; and the required witnesses from the DOJ, media, barangay, and PDEA were only present after the operation, and not as it happened.^[28]

The Office of the Solicitor General (OSG), through Assistant Solicitor General Ma. Antonia Edita C. Dizon and State Solicitor Catalina Shineta M. Tare-Palacio defended the verdict of conviction.^[29] It argued that all the elements of illegal sale of dangerous drugs were established; the integrity and evidentiary value of the seized items were preserved because of substantial compliance with the procedural requirements of Section 21 of RA 9165; and the *corpus delicti* was identified during the trial.

The Court of Appeals' Ruling

By Decision dated March 13, 2017, the Court of Appeals affirmed.^[30] It found that all the elements of the crime were present and the defense of frame up was weak and unsupported by evidence. As for the inconsistencies, these minor details did not relate to the main facts in question and did not affect the credibility of the witnesses. While the procedural safeguards prescribed under Section 21 RA 9165 and its Implementing Rules and Regulations (IRR) were not strictly complied with, the integrity and evidentiary value of the seized items were duly preserved in consonance with the chain of custody rule. Finally, it noted that the discrepancy in the description of the seized items did not cause a gap in the chain of custody because they were positively identified as marijuana by the arresting officers and