

SECOND DIVISION

[G.R. No. 229512, January 31, 2018]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V.
RONALDO PAZ Y DIONISIO @ "JEFF", ACCUSED-APPELLANT.**

D E C I S I O N

PERLAS-BERNABE, J.:

Before the Court is an ordinary appeal^[1] filed by accused-appellant Ronaldo Paz y Dionisio @ "Jeff" (Paz) assailing the Decision^[2] dated February 11, 2016 of the Court of Appeals (CA) in CA-G.R. CR HC No. 06886, which affirmed the Joint Decision^[3] dated February 17, 2014 of the Regional Trial Court of Pasig City, Branch 151 (RTC) in Crim. Case Nos. 16574-D, and 16575-D, among other cases, finding him 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 four (4) separate Informations^[5] filed before the RTC, charging Paz with the crimes of illegal sale and illegal possession of dangerous drugs, as well as illegal possession of dangerous drugs and paraphernalia during parties, meetings, and gatherings, the accusatory portions of which state:

Criminal Case No. 16574-D

On or about February 6, 2009, in Pasig City, and within the jurisdiction of this Honorable Court, the accused, not being lawfully authorized by law, did then and there willfully, unlawfully and feloniously sell, deliver and give away to PO1 Jeffrey Agbunag y Valbuena, a Police poseur buyer, one (1) heat-sealed transparent plastic sachet containing 0.08 gram of white crystalline substance, which was found positive to the test for methamphetamine hydrochloride, known as "shabu," a dangerous drug, in violation of the said law.

Contrary to law.^[6]

Criminal Case No. 16575-D

On or about February 6, 2009, in Pasig City, and within the jurisdiction of this Honorable Court, the accused, not being lawfully authorized to possess any dangerous drugs, did then and there willfully, unlawfully and feloniously have in his possession and under his custody and control three (3) heat-sealed transparent plastic sachets containing 0.02 gram of white crystalline substance, which was found positive to the test for

methamphetamine hydrochloride, known as "shabu," a dangerous drug, in violation of the said law.

Contrary to law.^[7]

Criminal Case No. 16576-D

On or about February 6, 2009, in Pasig City, and within the jurisdiction of this Honorable Court, the accused, while at a social gathering/meeting, in the proximate company of three persons and in conspiracy with one another, not being lawfully authorized to possess any dangerous drugs, did then and there willfully, unlawfully and feloniously have in their possession and under their custody and control one (1) unsealed transparent plastic sachet containing traces of white crystalline substance, in the occasion of its use or sniffing thereof, during a pot session, which substance were found positive to the test for methamphetamine hydrochloride commonly known as "shabu," a dangerous drug, in violation of the said law.

Contrary to law.^[8]

Criminal Case No. 16577-D

On or about February 6, 2009, in Pasig City, and within the jurisdiction of this Honorable Court, the accused, being in a pot session, and in the proximate company of three (3) persons and in conspiracy with one another, without having been duly authorized by law to possess paraphernalia for dangerous drugs, did then and there willfully, unlawfully and knowingly have in their possession and under their custody and control one (1) strip aluminum foil, one (1) rolled aluminium foil tooter and two (2) disposable lighters, said instruments fit or intended for smoking, consuming or introducing methamphetamine hydrochloride, a dangerous drug, the said drug paraphernalias except the disposable lighters contained traces of white crystalline substance, which were found positive to the test for methamphetamine hydrochloride commonly known as "shabu," in violation of the said law.

Contrary to law.^[9]

The prosecution alleged that at around 8:30 in the evening of February 6, 2009, a tip was received from a confidential informant that a certain Paz was selling illegal drugs along Market Avenue, Barangay Palatiw, Pasig City (Brgy. Palatiw). Acting on the said tip, a buy-bust operation was organized in coordination with the Philippine Drug Enforcement Agency. At about 11:35 in the evening, the buy-bust team, together with the informant, proceeded to the target area, which was a thrift shop (*ukay-ukay*) located at Brgy. Palatiw. Upon arriving thereat, the informant saw Paz and introduced him to PO1ice Officer 1 Jeffrey Agbunag (PO1 Agbunag), the designated poseur-buyer. When Paz asked PO1 Agbunag if he was going to buy, the latter replied, "I will score in the amount of P500.00." Paz then handed over a plastic sachet containing a white crystalline substance to PO1 Agbunag, who, after inspecting the said item, paid Paz using the marked money. Shortly after, PO1 Agbunag introduced himself as a police officer and arrested Paz. PO1 Agbunag then signalled Police Officer 3 Arnold Balagasay (PO3 Balagasay) for assistance, as there

were two (2) other persons later on identified as Rolando Condes y Olivas @ Tangkad (Condes) and Abner Laceda y Ramos @ Abner (Laceda) - who were purportedly sniffing *shabu* inside the shop. When PO3 Balagasay entered the thrift shop, he immediately arrested Condes and Laceda. Thereafter, PO3 Balagasay noticed some drug paraphernalia placed on top of a sack of clothes, *i.e.*, one (1) unsealed transparent plastic sachet with traces of white crystalline substance, an aluminium foil with traces of white crystalline substance, an aluminium foil used as a tooter, and two (2) disposable lighters, which he subsequently confiscated and marked. Meanwhile, PO1 Agbunag instructed Paz to empty his pockets, which yielded three (3) more heat-sealed plastic sachets of white crystalline substance, the marked money, and three (3) 100-peso bills. Consequently, PO1 Agbunag marked all four (4) plastic sachets.^[10] Thereafter, the buy-bust team took the confiscated plastic sachets and drug paraphernalia to the Pasig City Police Station, where the requisite inventory was conducted by PO1 Agbunag. After the inventory, Paz, together with Condes and Laceda, was brought to the Rizal Medical Center for medical examination, which was followed by a drug testing at the EDP Crime Laboratory Service. The confiscated plastic sachets and drug paraphernalia were likewise submitted to the EDP Crime Laboratory Service for qualitative examination.^[11] Accordingly, they were received and examined by Forensic Chemist Police Chief Inspector Lourdeliza Gural Cejes (PSI Cejes), who confirmed that they contained *methamphetamine hydrochloride*, a dangerous drug. ^[12]

For his part, Paz interposed the defense of denial, claiming that he was not caught in a buy-bust operation, for there were no buy-bust money and dangerous drugs recovered from him. He maintained that between seven o'clock to eight o'clock in the evening of February 6, 2009,^[13] he was preparing to close the thrift shop with his wife and Condes, when three (3) unidentified armed men suddenly arrived and handcuffed him and Condes. When they asked about their violation, they were told to just explain in the office. After they were brought to the precinct, they were placed inside a detention cell, while Paz's cellphone and money were taken away from him. The police demanded the amount of P100,000.00 in exchange for their release, which amount they purportedly failed to provide. As such, they were brought to Marikina to have their urine samples taken, and thereafter, to the Rizal Medical Center. On February 9, 2009, they were finally brought to the Prosecutor's Office.^[14]

As for Condes and Laceda, they corroborated the testimony of Paz, further alleging that they did not file any administrative charges against the arresting officers out of fear of reprisal.^[15] Notably, Condes died during the pendency of the case, and accordingly, a death certificate was submitted to the RTC.^[16]

The RTC Ruling

In a Joint Decision^[17] dated February 17, 2014, the RTC ruled as follows: (a) in Crim. Case No. 16574-D, Paz was found guilty beyond reasonable doubt of violating Section 5, Article II of RA 9165, and hence, sentenced to suffer the penalty of life imprisonment and to pay a fine of P500,000.00; (b) in Crim. Case No. 16575-D, Paz was found guilty beyond reasonable doubt of violating Section 11, Article II of RA 9165, and thus, sentenced to suffer an indeterminate prison term of eight (8) years and one (1) day, as minimum, to fourteen (14) years, as maximum, and to pay a fine of P300,000.00; (c) in Crim. Case Nos. 16576-D and 16577-D, Paz and Laceda

were acquitted of violating Sections 13 and 14, Article II of RA 9165 on the ground of reasonable doubt; and (d) the cases against Condes were dismissed in view of his death pursuant to Article 89 (1) of the Revised Penal Code.^[18]

The RTC held that all the elements of the crimes for illegal sale and illegal possession of dangerous drugs were satisfactorily proven to convict Paz of the said crimes.^[19] Further, it ruled that the absence of an elected public official and a representative from the media and the Department of Justice (DOJ) did not render the buy-bust operation illegal, as the chain of custody over the dangerous drugs was competently proven by the prosecution. More significantly, it was shown that the integrity and evidentiary value of the seized drugs had been preserved from the time they were seized, marked, and inventoried by PO1 Agbunag until they were brought to the Crime Laboratory for examination.^[20]

Meanwhile, the RTC found that Condes and Laceda could not be convicted of violations of Sections 13 and 14, Article II of RA 9165. The RTC noted that PO3 Balagasay, as the officer responsible for the arrest of Condes and Laceda, failed to sign the inventory of the seized paraphernalia. As such, it was probable that the items seized from them were not the same items listed in the inventory. Also, the amount or quantity of suspected *shabu* found in the unsealed transparent plastic sachet - which was previously recovered from Condes and Laceda - could barely be determined, as the sachet merely contained traces or residue of the suspected drug.^[21]

Similarly, the RTC held that Paz could not be charged of Sections 13 and 14, Article II of RA 9165 as well, considering that he was not caught in the company of Condes and Laceda when he was selling shabu to PO1 Agbunag. In fact, PO1 Agbunag testified that Condes and Laceda were caught having a pot session without Paz around them.^[22]

Aggrieved, Paz appealed^[23] to the CA.

The CA Ruling

In a Decision^[24] dated February 11, 2016, the CA affirmed the RTC ruling with modification, adjusting the penalty in Crim. Case No. 16575-D (that is, for violation of Section 11, Article II of RA 9165) to an indeterminate prison term of twelve (12) years and one (1) day, as minimum, to fourteen (14) years, as maximum. ^[25] It held that despite the arresting officers' failure to both conduct an inventory of the seized drugs immediately after the arrest and take photographs thereof in the presence of Paz and the required witnesses, it was nevertheless established that the integrity of the chain of custody of the seized drugs was preserved.^[26] On the contrary, it declared that the origin of the buy-bust money and the non-presentation of the confidential informant in court were inconsequential to the prosecution of the crimes charged. It likewise added that the absence of a prior surveillance was neither required for the validity of a buy-bust operation, nor was it fatal to the prosecution's case.^[27]

Hence, the instant appeal.

The Issue Before the Court

The core issue for the Court's resolution is whether or not the CA correctly upheld Paz's conviction for the crimes charged.

The Court's Ruling

At the outset, it must be stressed that an appeal in criminal cases opens the entire case for review and, thus, it is the duty of the reviewing tribunal to correct, cite, and appreciate errors in the appealed judgment whether they are assigned or unassigned.^[28] "The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law."^[29]

In this case, Paz was charged 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. In every prosecution for an unauthorized sale of dangerous drugs, it is essential that the following elements are proven beyond reasonable doubt: (a) the identity of the buyer and the seller, the object, and the consideration; and (b) the delivery of the thing sold and the payment.^[30] Meanwhile, to convict an accused who is charged with illegal possession of dangerous drugs, the prosecution must establish the following elements also by proof beyond reasonable doubt: (a) the accused was in possession of an item or object identified as a prohibited drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug.^[31]

In both circumstances, the prosecution must prove with moral certainty the identity of the prohibited drug, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime. The prosecution has to show an unbroken chain of custody over the dangerous drugs so as to obviate any unnecessary doubts on the identity of the dangerous drugs on account of switching, "planting," or contamination of evidence. Accordingly, the prosecution must be able to account for each link of the chain of custody from the moment that the illegal drugs are seized up to their presentation in court as evidence of the crime.^[32]

In this regard, Section 21, Article II of RA 9165 outlines the procedure which the police officers must follow when handling the seized drugs in order to preserve their integrity and evidentiary value.^[33] Under the said provision, the apprehending team shall, among others, **immediately after seizure and confiscation conduct a physical inventory and photograph the seized items in the presence of the accused or the person from whom the items were seized, or his representative or counsel, a representative from the media and the DOJ, and any elected public official** who shall be required to sign the copies of the inventory and be given a copy of the same, and the seized drugs must be turned over to the Philippine National Police (PNP) Crime Laboratory within twenty-four (24) hours from confiscation for examination.^[34] In the case of *People v. Mendoza*,^[35] the Court stressed that **"[w]ithout the insulating presence of the representative from the media or the [DOJ], or any elected public official during the seizure and marking of the [seized drugs], the evils of switching, 'planting' or contamination of the evidence** that had tainted the buy-busts conducted under the regime of [RA] 6425 (*Dangerous Drugs Act of 1972*) again reared their ugly heads as to **negate the integrity and credibility of the seizure and confiscation of the [said drugs] that were evidence herein of**