

SECOND DIVISION

[G.R. No. 229092, February 21, 2018]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. RAUL
MANANSALA Y MANINANG, 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 Raul Manansala y Maninang (Manansala) assailing the Decision^[2] dated November 27, 2015 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07080, which affirmed the Judgment^[3] dated September 5, 2014 of the Regional Trial Court of Calamba City, Branch 37 (RTC) in Crim. Case Nos. 16329-2009-C and 16330-2009-C finding Manansala 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 charging Manansala of 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 accusatory portions of which state:

Crim. Case No. 16329-2009-C (For violation of Section 5, Article II of RA No. 9165)

That on or about 11:30 a.m. of 07 March 2009 at Brgy. Parian, Calamba City and within the jurisdiction of this Honorable Court, the above-named accused, without any authority of law, did then and there willfully, unlawfully and feloniously sell and deliver to a poseur buyer a one (1) plastic sachets (sic) of Methamphetamine Hydrochloride, otherwise known as "*shabu*", a dangerous drug, having a total weighing (sic) 0.02 grams.

CONTRARY TO LAW.^[6]

Crim. Case No. 16330-2009-C (For violation of Section 11, Article II of RA No. 9165)

That on or about 11:30 a.m. of 07 March 2009 at Brgy. Parian, Calamba City and within the jurisdiction of this Honorable Court, the above-named accused, without any authority of law, did then and there willfully, unlawfully and feloniously possess one (1) plastic sachets (sic) of Methamphetamine Hydrochloride, otherwise known as "*shabu*", a

dangerous drug, having a total weigh of 0.01 grams, in violation of the aforementioned law.

CONTRARY TO LAW.^[7]

The prosecution alleged that on March 7, 2009, a buy-bust team composed of Police Senior Inspector Jaime V. Pederio, Police Inspector Jose Mari Pena, Police Officer (PO) 2 Dela Rosa (PO2 Dela Rosa) and PO2 Renato Magadia, Jr.^[8] (PO2 Magadia) was formed, in response to an information given by a confidential agent that Manansala was selling *shabu* at Barangay Parian, Calamba City. After conducting a pre-operation procedure and coordinating with the Philippine Drug Enforcement Agency (PDEA), as well as the barangay officials of Parian, the buy-bust team together with the confidential agent, proceeded to the target area. As soon as Manansala was identified, PO2 Magadia, the designated poseur-buyer, approached Manansala and asked if he could purchase *shabu*. Manansala asked how much money PO2 Magadia had and in turn, the latter gave the marked P500.00 bill, while Manansala simultaneously handed over one (1) plastic sachet of suspected *shabu*. After inspecting the same, PO2 Magadia introduced himself as a police officer and arrested Manansala. Subsequently, a preventive search was conducted on Manansala to ensure that he had no firearms. Not finding any, Manansala was ordered to empty his pockets which yielded another plastic sachet of suspected *shabu*. Upon confiscation and marking of the items at the place of arrest, PO2 Magadia brought Manansala to the Parian Barangay Hall where a blotter of the incident was made. Thereafter, Manansala was taken to J.P. Hospital for medical examination, and then to the police station where PO2 Magadia prepared a request for laboratory examination of the seized items. After securing the letter-request, PO2 Magadia delivered the said items to the crime laboratory where it was received by forensic chemist Lalaine Ong Rodrigo who confirmed that they tested positive for the presence of *methamphetamine hydrochloride*, a dangerous drug.^[9]

For his part, Manansala denied the charges against him, claiming that at around eleven (11) o'clock in the morning of March 7, 2009, he was at home doing the laundry with his daughter, when two (2) persons entered, pointed a gun at him, and made him board a black car. He averred that he was later transferred to a police mobile and interrogated about a certain "Iko." When he replied in the negative, he was returned to the black car and brought to the Parian Barangay Hall where two (2) officers told the barangay officials that they recovered from his possession the P500.00 bill and a *tawas*-like substance.^[10]

The RTC Ruling

In a Judgment^[11] dated September 5, 2014, the RTC ruled as follows: (a) in Crim. Case No. 16329-2009-C, Manansala was found guilty beyond reasonable doubt of violating Section 5, Article II of RA 9165 and, accordingly, sentenced to suffer the penalty of life imprisonment and to pay a fine of P500,000.00; and (b) in Crim. Case No. 16330-2009-C, Manansala was likewise found guilty beyond reasonable doubt of violating Section 11, Article II of RA 9165 and, accordingly, sentenced to suffer the penalty of imprisonment for an indeterminate term of twelve (12) years and one (1) day, as minimum, to fourteen (14) years, as maximum, and to pay a fine of P300,000.00.^[12]

The RTC held that the prosecution sufficiently established all the elements of Illegal Sale of Dangerous Drugs as it was able to prove that: (a) one (1) sachet of *shabu* was sold during the buy-bust operation; (b) Manansala was positively identified by PO2 Magadia as the seller of the said dangerous drug; and (c) the said dangerous drug was presented and duly identified in court as the subject of the sale. Also, the RTC observed that the essential elements of Illegal Possession of Dangerous Drugs were established since another plastic sachet of *shabu* was recovered from Manansala during the preventive search.^[13] On the contrary, Manansala's denial and defense of frame-up were given scant consideration for lack of substance.^[14]

Furthermore, the RTC declared that the integrity and evidentiary value of the seized items were properly preserved from the time of their seizure by PO2 Magadia until their turnover to the crime laboratory.^[15]

Aggrieved, Manansala appealed^[16] to the CA.

The CA Ruling

In a Decision^[17] dated November 27, 2015, the CA affirmed Manansala's conviction for the crimes charged.^[18] It ruled that all the elements of the crimes of Illegal Sale and Possession of Dangerous Drugs were duly proven by the prosecution through PO2 Magadia's detailed narration of the incident. It further held that the confidential informant need not be presented in order to successfully hold Manansala liable.^[19] More importantly, the CA admitted that while the requirements under Section 21 of RA 9165 were not perfectly adhered to by the police officers, considering the absence of representatives from the media, the Department of Justice (DOJ), and any elected public official during the inventory and photography of the seized drugs, the integrity and evidentiary value of the same were shown to have been duly preserved as PO2 Magadia was its custodian from the time of their confiscation until presentation in court as evidence.^[20]

Hence, this appeal.

The Issue Before the Court

The issue for the Court's resolution is whether or not the CA correctly upheld Manansala's conviction for Illegal Sale and Illegal Possession of Dangerous Drugs.

The Court's Ruling

The appeal is meritorious.

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.^[21] "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."^[22]

In this case, Manansala 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. Notably, in order to properly secure the conviction of

an accused charged with Illegal Sale of Dangerous Drugs, the prosecution must prove: (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.^[23] Meanwhile, in instances wherein an accused is charged with Illegal Possession of Dangerous Drugs, the prosecution must establish the following elements to warrant his conviction: (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.^[24]

Case law states that in both instances, 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. Thus, in order to obviate any unnecessary doubt on its identity, the prosecution has to show an unbroken chain of custody over the same and account for each link in the chain of custody from the moment the drugs are seized up to its presentation in court as evidence of the crime.^[25]

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.^[26] Under the said section, prior to its amendment by RA 10640,^[27] 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 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 of the same, and the seized drugs must be turned over to the PNP Crime Laboratory within twenty-four (24) hours from confiscation for examination.^[28] In the case of *People v. Mendoza*,^[29] the Court stressed that "**[w]ithout the insulating presence of the representative from the media or the Department of Justice, 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 the corpus delicti, and thus adversely affected the trustworthiness of the incrimination of the accused.** Indeed, the x x x presence of such witnesses would have preserved an unbroken chain of custody."^[30]

The Court, however, clarified that under varied field conditions, strict compliance with the requirements of Section 21 of RA 9165 may not always be possible.^[31] In fact, the Implementing Rules and Regulations (IRR) of RA 9165 - which is now crystallized into statutory law with the passage of RA 10640 - provide that the said inventory and photography may be conducted at the nearest police station or office of the apprehending team in instances of warrantless seizure, and that **non-compliance with the requirements of Section 21 of RA 9165 - under justifiable grounds - will not render void and invalid the seizure and custody over the seized items so long as the integrity and evidentiary value of the seized items are properly preserved by the apprehending officer or team.**^[32] In other words, the failure of the apprehending team to strictly comply

with the procedure laid out in Section 21 of RA 9165 and its IRR does 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 justifiable ground for non-compliance; **and** (b) the integrity and evidentiary value of the seized items are properly preserved.^[33] In *People v. Almorfe*,^[34] **the Court explained that for the above-saving clause to apply, the prosecution must explain the reasons behind the procedural lapses, and that the integrity and evidentiary value of the seized evidence had nonetheless been preserved.**^[35] Also, in *People v. De Guzman*,^[36] it was emphasized 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]

In this case, the Court finds that the police officers committed unjustified deviations from the prescribed chain of custody rule, thereby putting into question the integrity and evidentiary value of the items purportedly seized from Manansala.

An examination of the records reveals that while the prosecution was able to show that the seized items were marked by PO2 Magadia immediately upon confiscation at the place of arrest and in the presence of Manansala, the same was not done in the presence of any elected public official, as well as a representative from the DOJ and the media. Despite the failure to observe these requirements, no justifiable ground was given to explain such lapse. Additionally, records are bereft of evidence showing that a physical inventory of the seized items was made or that photographs of the same were taken.

The prosecution itself admitted these lapses when PO2 Magadia testified that:

[Prosecutor Joyce M. Barut]: Are you aware Police Officer Magadia of the provisions of Section 21, RA 9165 particularly the preparations of inventory and the taking of photographs of the accused and the items?

[PO2 Magadia]: Yes, ma'am.

Q: Were you able to comply with the provisions?

A: No ma'am.

Q: Why not?

A: Because commotion already happened that is why we just made a blotter on the barangay, ma'am.

Q: Did you take photographs of the accused and the items confiscated?

A: No ma'am.

Q: Why not?

A: Because we do not have any camera at that time, ma'am.

x x x x^[38] (Underscoring supplied)

The mere marking of the seized drugs, unsupported by a physical inventory and taking of photographs, and in the absence of the necessary personalities under the law, fails to approximate compliance with the mandatory procedure under Section