

FIRST DIVISION

[G.R. No. 219955, February 05, 2018]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GLENN DE GUZMAN Y DELOS REYES, ACCUSED-APPELLANT.

D E C I S I O N

DEL CASTILLO, J.:

Assailed in this appeal is the January 29, 2015 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05930 which affirmed the October 10, 2012 Decision^[2] of the Regional Trial Court (RTC), Branch 75, Olongapo City, finding Glenn De Guzman y Delos Reyes (appellant) guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of Republic Act (RA) No. 9165, or the Comprehensive Dangerous Drugs Act of 2002.

The Antecedent Facts

Appellant was charged with the illegal sale and possession of dangerous drugs, as well as the use of dangerous drugs under Sections 5, 11 and 15, Article II of RA 9165 in three Informations^[3] dated November 16, 2009 which read:

Criminal Case No. 627-2009

That on or about the twelfth [sic] (12th) day of November, 2009, in the City of Olongapo, Philippines and within the jurisdiction of this Honorable Court the above-named accused, did then and there willfully, unlawfully and knowingly deliver to PO1 Lawrence Reyes Php100.00 (SN-S528347) worth of marijuana fruiting tops, which is a dangerous drug[,] in one (1) plastic sachet weighing Two Grams and Fifty Thousandths of a gram (2.050 gm.)

Criminal Case No. 628-2009

That on or about the twelfth (12th) day of November, 2009, in the City of Olongapo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and knowingly have in his effective possession and control, four (4) heat-sealed transparent plastic sachets containing marijuana fruiting tops weighing 8.645 gms. and one (1) pc. of ziplock containing small bricks of marijuana fruiting tops weighing 32.825 grams said accused not having the corresponding license or prescription to possess said dangerous drugs.

Criminal Case No. 629-2009

That on or about the twelfth (12th) day of November, 2009, in the City of Olongapo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without being lawfully authorized, did then and there willfully, unlawfully and knowingly, was found to be positive for use of THC metabolites, a dangerous drug after a confirmatory test.

During his arraignment on December 10, 2009, appellant entered a plea of not guilty.^[4] Trial thereafter ensued.

Version of the Prosecution

On November 12, 2009, at around 11:45 p.m., the Anti-Illegal Drugs Special Unit of Olongapo City, in coordination with the Philippine Drug Enforcement Agency (PDEA), conducted an entrapment operation against appellant along Balic-balic Street, Sta. Rita, Olongapo City. Prior surveillance had confirmed numerous reports that appellant was indiscriminately selling marijuana within the neighborhood.^[5]

During the pre-operation briefing, P/Insp. Julius Javier designated PO1 Lawrence Reyes (PO1 Reyes) as poseur buyer, SPO1 Allan Delos Reyes (SPO1 Delos Reyes) as case investigator and back-up, PO2 David Domingo as spotter, and three other policemen as perimeter security.^[6]

At the target area, appellant approached PO1 Reyes and asked if he wanted to buy marijuana. PO1 Reyes accepted the offer and handed the P100.00 marked money to appellant who, in turn, gave him a sachet of marijuana fruiting tops. Once the exchange was completed, PO1 Reyes grabbed appellant's right hand which served as the pre-arranged signal that the transaction had been consummated.^[7]

SPO1 Delos Reyes rushed to the scene and assisted PO1 Reyes in conducting a body search on appellant. They introduced themselves as police officers, informed appellant of his constitutional rights and placed him under arrest. After the body search, SPO1 Delos Reyes recovered the P100.00 marked money, four sachets of marijuana and one plastic pack containing a small brick of marijuana fruiting tops.^[8]

The entrapment team immediately brought appellant to the police station after his relatives created a commotion and tried to interfere in appellant's arrest.^[9]

At the police station, PO1 Reyes marked the sachet that was the subject of the buy-bust operation with his initials "LR" and turned it over to SPO1 Delos Reyes who also put his initials "ADR" thereon. SPO1 Delos Reyes separately marked the other four sachets and the plastic pack that he had confiscated from appellant during the body search with his initials "ADR."^[10]

SPO1 Delos Reyes then prepared the Inventory Receipt, the Letter Request for Laboratory Examination, and the Request for Drug Test.^[11] Photographs of the confiscated items were also taken. Notably, only two barangay officials were present during the conduct of a physical inventory of the seized items there were no representatives from both the Department of Justice (DOJ) and the media.^[12]

Later, SPO1 Delos Reyes personally turned over the seized items to the Regional Crime Laboratory in Olongapo City.^[13] On November 13, 2009, Forensic Chemist Arlyn Dascil (Forensic Chemist Dascil) conducted a qualitative examination on the subject specimens to determine the presence of dangerous drugs. Based on Chemistry Report No. D-074-2009-OCCLLO,^[14] the seized items tested positive for the presence of marijuana, a dangerous drug.

Version of the Defense

Appellant raised the defenses of denial and frame-up and insisted that the evidence against him was planted. He narrated that, while on his way home from a party, some armed men alighted from a van and asked for the whereabouts of a certain "Bunso." After failing to provide an answer, he was frisked and brought to the police station where he was incarcerated and forced to point to the drugs on the table as pictures were taken.^[15]

Ruling of the Regional Trial Court

In its Decision dated October 10, 2012, the RTC found appellant guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of RA 9165. It held that:

x x x In this case, the delivery of the illicit drug to the poseur-buyer and the receipt by the seller of the marked money successfully consummated the buy bust transaction. This was further corroborated by the presentation of the marked money in evidence. Moreover, the failure of the accused to successfully impute false motive to the policemen who arrested him strengthens the presumption that they were in the regular discharge of duties when they entrapped the accused and later charged him with drug pushing x x x.^[16]

The RTC also held that "the integrity and the evidentiary value of the drug involved were safeguarded,"^[17] as the seized items were "immediately marked for proper identification by the seizing officers and turned over to SPO1 Delos Reyes who, in turn, prepared the receipt of evidence in the presence of the accused, members of the police and *barangay* representatives."^[18]

Nevertheless, the RTC acquitted appellant of the charge of use of dangerous drugs under Section 15, Article II of RA 9165, considering that Section 15 is *inapplicable* where "the person tested is also found to have in his/her possession such quantity of any dangerous drug,"^[19] as in this case.

Accordingly, the RTC sentenced appellant to suffer the penalties of: a) life imprisonment and a fine of P500,000.00 for violation of Section 5, Article II of RA 9165 in Criminal Case No. 627-09; and b) imprisonment from twelve (12) years and one (1) day to fourteen (14) years and eight (8) months and a fine of P300,000.00 for violation of Section 11, Article II of RA 9165 in Criminal Case No. 628-09.^[20]

Appellant thereafter appealed the RTC Decision before the CA.

Ruling of the Court of Appeals

In its Decision dated January 29, 2015 the CA affirmed the assailed RTC Decision *in toto*. It upheld the RTC's findings that the prosecution was able to sufficiently establish all the elements of both the illegal sale and possession of dangerous drugs. [21]

The CA noted that appellant was positively identified by PO1 Reyes, the poseur-buyer, as the person who sold to him a sachet of marijuana that was presented in court for P100.00 during the entrapment operation. [22] It emphasized that "[i]n cases of illegal sale of dangerous drugs, the delivery of the contraband to the poseur-buyer and the receipt by the accused of the marked money consummate the transaction." [23]

In addition, the CA ruled that all the elements of illegal possession of marijuana were present in the case, considering that: *first*, four sachets of marijuana and one plastic pack containing a small brick of marijuana and 11 empty tops were found in appellant's possession after a lawful search on his person; and *second*, appellant failed to adduce evidence showing his legal authority to possess the contrabands recovered from him. [24]

Finally, the CA held that "the prosecution [had] adequately shown the unbroken possession and subsequent transfers of the confiscated items through the following links in the chain of custody:" [25]

- (1) PO1 Reyes marked the plastic sachet that was subject of the buy-bust with "LR" and turned it over to case investigator SPO1 Delos Reyes who marked it with his own initials "ADR." On the other hand, the four other sachets and plastic pack searched from the person of the accused were separately marked by SPO1 Delos Reyes with his initials "ADR";
- (2) A request for laboratory examination of the seized items was then prepared by SPO1 Delos Reyes;
- (3) The request and the marked items were personally delivered by SPO1 Delos Reyes to the Regional Crime Laboratory;
- (4) Chemistry Report No. D-074-2009-OCCLLO confirmed that the specimens contained marijuana; and
- (5) The marked items were offered in evidence as Exhibits "I", "I-I" and "I-2". [26]

Aggrieved, appellant filed the present appeal.

The Issue

Appellant raises the sole issue of whether the chain of custody over the seized items had remained unbroken despite the arresting officers' failure to strictly comply with the requirements under Section 21, Article II of RA 9165, *i.e.*, the failure to mark the seized items at the crime scene, and the absence of the representatives from both the DOJ and the media during the conduct of the physical inventory and taking

of photographs of said items.

The Court's Ruling

"For prosecutions involving dangerous drugs, the dangerous drug itself constitutes as the *corpus delicti* of the offense and the fact of its existence is vital to sustain a judgment of conviction beyond reasonable doubt."^[27] Like the other elements of the offense/s charged the identity of the dangerous drug must be established with moral certainty. Such proof requires "an unwavering exactitude that the dangerous drug presented in court as evidence against the accused is the same as that seized from him."^[28]

Thus, in prosecutions for the illegal sale of dangerous drugs, what is material "is the proof that the transaction or sale or [sic] had actually taken place, coupled with the presentation in court of evidence of [the] *corpus delicti*."^[29] Similarly, in illegal possession of dangerous drugs, aside from the elements of the offense, "the evidence of the *corpus delicti* must be established beyond [reasonable] doubt."^[30]

Note, however, that the presentation of evidence establishing the elements of the offenses of illegal sale and possession of dangerous drugs *alone* is insufficient to secure or sustain a conviction under RA 9165. In *People v. Denoman*,^[31] the Court explained:

A successful prosecution for the sale of illegal drugs requires more than the perfunctory presentation of evidence establishing each element of the crime: the identities of the buyer and seller, the transaction or sale of the illegal drug and the existence of the *corpus delicti*. In securing or sustaining a conviction under RA No. 9165, the intrinsic worth of these pieces of evidence, especially the identity and integrity of the *corpus delicti*, must definitely be shown to have been preserved. This requirement necessarily arises from the illegal drug's unique characteristic that renders it indistinct, not readily identifiable, and easily open to tampering, alteration or substitution either by accident or otherwise. **Thus, to remove any doubt or uncertainty on the identity and integrity of the seized drug, evidence must definitely show that the illegal drug presented in court is the same illegal drug actually recovered from the accused-appellant; otherwise, the prosecution for possession or for drug pushing under RA No. 9165 fails.**^[32] (Emphasis supplied)

Section 21, Article II of RA 9165 provides the procedural safeguards that the apprehending team should observe in the handling of seized illegal drugs in order to preserve their identity and integrity as evidence. "As indicated by their *mandatory terms*, strict compliance with the prescribed procedure is essential and the prosecution must show compliance in every case."^[33]

The procedure under Section 21, par. 1 of RA 9165, as amended by RA 10640,^[34] is as follows:

Section 21. Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs,