

THIRD DIVISION

[G.R. No. 216014, March 14, 2018]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. EDWIN
SANCHEZ Y SALVO A.K.A. "DADA," ACCUSED-APPELLANT.**

RESOLUTION

LEONEN, J.:

This resolves the appeal^[1] assailing the Court of Appeals July 14, 2014 Decision^[2] in CA-GR. CR-HC No. 05387 that affirmed the conviction of accused-appellant Edwin Sanchez y Salvo (Sanchez) for illegal sale and possession of dangerous drugs. He was found to have sold 0.215 grams and possessed an additional 0.211 grams of methamphetamine hydrochloride or "shabu."^[3]

Two (2) Informations for violation of the Comprehensive Dangerous Drugs Act were filed against Sanchez before the Regional Trial Court, Calapan City, Oriental Mindoro. The accusatory portion of the Information for illegal sale of dangerous drugs punished under Section 5^[4] of the Comprehensive Dangerous Drugs Act provides:

That on or about the 10th day of August 2008, at around 3:30 in the afternoon, more or less, at Sitio Calawang, Barangay Lumangbayan, City of Calapan[,], Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without any legal authority, nor corresponding license or prescription, did then and there willfully, unlawfully and feloniously sell, deliver, transport or distribute to a poseur-buyer, methamp[het]amine hydrochloride (shabu), a dangerous drug, weighing 0.215 [grams], more or less.

CONTRARY TO LAW.^[5]

On the other hand, the accusatory portion of the Information for the possession of dangerous drugs punished under Section 11^[6] of the Comprehensive Dangerous Drugs Act states:

That on or about the 10th day of August 2008, at around 3:30 in the afternoon, more or less, at Sitio Calawang, Barangay Lumangbayan, City of Calapan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without any legal authority nor corresponding license or prescription, did then and there wil[l]fully, unlawfully, and feloniously has in his possession, custody and control, one (1) small heat-sealed plastic sachet containing methamp[het]amine hydrochloride (shabu), a dangerous drug, weighing 0.211 [grams], more or less.

CONTRARY TO LAW.^[7]

During arraignment, accused Sanchez pleaded not guilty to both charges. Trial then ensued.^[8]

Police Senior Inspector Rhea Fe dela Cruz Alviar (P/S Insp. Alviar), Punong Barangay Cresente Mendoza, Jr. (Punong Barangay Mendoza), Intelligence Officer 1 Kathleen Diocampo (IO1 Diocampo), Intelligence Officer 1 Mario Riñopa (IO1 Riñopa), and Department of Justice representative Pedro Magnaye (Magnaye) testified for the prosecution.^[9] Taken together, their testimonies tended to prove the following version of the facts.

On August 10, 2008, the Philippine Drug Enforcement Agency Regional Office IV-B organized a buy-bust operation after receiving a tip that a certain "Dada" from Laguna was selling "shabu" in Barangay Lumangbayan, Calapan City. Under the plan of action, IO1 Diocampo would act as the poseur-buyer and IO1 Riñopa would be the arresting officer. Two (2) P500.00 bills with the poseur-buyer's initials, "KCD," were then prepared as marked money.^[10]

IO1 Diocampo and the confidential informant then boarded a tricycle while the rest of the buy-bust team rode a Toyota Revo that closely followed them. At the target area in Sitio Calawang, Barangay Lumangbayan, IO1 Diocampo and the confidential informant positioned themselves in front of a bungalow. The rest of the buy-bust team were in the nearby parked Toyota Revo.^[11]

At about 3:30p.m., a man in a brown shirt and khaki pants arrived and approached the confidential informant and IO1 Diocampo, disguised as the poseur-buyer, who was introduced as "Kat-Kat."^[12] The man then asked for the money first and so IO1 Diocampo reached for her pocket and showed the man the marked P500.00 bills.^[13]

The man then handed IO1 Diocampo a heat-sealed transparent plastic sachet containing a white crystalline substance, saying, "*Okay yan. Panalo yan! Kung gusto mo kunin mo na rin yung isa pa rito at magdagdag ka ng isang libo.*"^[14]

IO1 Diocampo then paid the man with the marked money and executed the pre-arranged signal to the buy-bust team by putting on sunglasses.^[15]

IO1 Riñopa and the rest of the buy-bust team rushed to the scene and arrested the man who turned out to be accused Sanchez. After informing Sanchez of his constitutional rights, IOI Riñopa conducted a body search and retrieved the marked money from him. Another plastic sachet was likewise retrieved from the accused.^[16]

Accused Sanchez was then brought to the barangay hall where the seized items were marked "1KCD" and "2KCD"^[17] by IO1 Diocampo,^[18] "KCD" being her initials. The seized items were then inventoried in the presence of Punong Barangay Mendoza of Barangay Lumangbayan and Magnaye.^[19]

IO1 Diocampo personally delivered the seized items to the Regional Crime Laboratory. P/S Insp. Alviar examined the specimen, confirming that the seized items contained methamphetamine hydrochloride or "shabu."^[20]

The lone witness for the defense was accused Sanchez, who testified to the following version of the facts.

Accused Sanchez was a native of Laguna and was brought to Calapan City, Oriental Mindoro by an unnamed live-in partner to visit the latter's parents.^[21]

By August 10, 2008, he and his live-in partner had been in Calapan City for eight (8) days. In the afternoon of the same day, he was having a drinking session with five (5) other men^[22] in a "kubol" by the roadside when armed persons approached him and invited him to the office of the Philippine Drug Enforcement Agency.^[23]

Accused Sanchez voluntarily went with the agents to the office of the Philippine Drug Enforcement Agency where he filled out forms and provided some basic personal information.^[24]

After about an hour, after showing Sanchez two (2) P500.00 bills and two (2) small plastic sachets, an agent declared accused Sanchez to be under arrest, and he was taken to the barangay hall of Lumangbayan where the documents he earlier filled out were signed by Punong Barangay Mendoza and Magnaye.^[25]

The agents returned accused Sanchez to the office of the Philippine Drug Enforcement Agency. Later that night, accused Sanchez was brought to the provincial police camp where he and the agents stayed for about two (2) hours.^[26]

Accused Sanchez was again returned to the office of the Philippine Drug Enforcement Agency where he was detained for 16 days before he was finally transferred to the provincial jail.^[27]

In the Joint Decision^[28] dated November 8, 2011, Branch 39 of the Regional Trial Court of Calapan City, Oriental Mindoro found for the prosecution and convicted accused Sanchez of the crimes charged. The trial court found that the prosecution proved the elements of the crime of illegal sale of dangerous drugs, i.e., the identity of the buyer and the seller, the object of the sale, and the consideration; and the delivery of the thing sold and payment for it.^[29] The trial court believed IO1 Diocampo's testimony on how she acted as poseur-buyer, paying the marked money to accused Sanchez in exchange for a sachet of methamphetamine hydrochloride.^[30]

The trial court likewise found that the elements of possession of dangerous drugs were duly proven, i.e., "(1) the accused [was] in possession of an item or object . . . identified to be a prohibited drug; (2) such possession [was] not authorized by law; and (3) the accused freely and consciously possessed the said drug."^[31] In addition to the sachet sold to IO1 Diocampo, another sachet containing methamphetamine hydrochloride was recovered from accused Sanchez after he was frisked. Accused Sanchez had no authority to possess the prohibited drug, which he freely and consciously carried in his pocket.^[32]

With respect to the chain of custody of the seized item, the trial court found that an unbroken chain was established. Upon confiscation by IO1 Riñopa, the sachets were turned over to IO1 Diocampo, who marked the sachets with her initials. IO1 Diocampo then personally delivered the items to the crime laboratory for testing.^[33] Finally, the trial court disregarded accused Sanchez's defense of denial and "frame up" given the positive testimonies of the prosecution witnesses.^[34]

The dispositive portion of the trial court's November 8, 2011 Decision read:

A C C O R D I N G L Y, in view of the foregoing, judgment is hereby rendered as follows:

1. In CR-08-9262, this Court finds accused EDWIN SANCHEZ y SALVO **GUILTY** beyond reasonable doubt as principal of the crime [of sale of dangerous drugs] and in default of any modifying circumstances attendant, hereby sentences him to suffer the penalty of **LIFE IMPRISONMENT and to pay a fine of FIVE HUNDRED THOUSAND (P500,000.00) PESOS**, with the accessory penalties provided by law and with credit for preventive imprisonment undergone, if any. The 0.215 grams of methamphetamine hydrochloride (shabu) subject matter of this case is hereby ordered confiscated in favor of the government to be disposed of in accordance with law.
2. In CR-08-9263, this Court finds the accused EDWIN SANCHEZ y SALVO **GUILTY** beyond reasonable doubt as principal of the crime [of possession of dangerous drugs] and in default of any modifying circumstances attendant, hereby sentences him to suffer the indeterminate penalty of imprisonment ranging **from TWELVE (12) YEARS and ONE (1) DAY as MINIMUM to FIFTEEN (15) YEARS and ONE (1) DAY as MAXIMUM and to pay a fine in lte amount of P300,000.00**, with the accessory penalties provided by law and with credit for preventive imprisonment undergone, if any. The 0.211 grams of methamphetamine hydrochloride (shabu) subject matter of this case is hereby ordered confiscated in favor of the government to be disposed of in accordance with law.

SO ORDERED.^[35] (Emphasis in the original)

Accused-appellant Sanchez filed before the Court of Appeals an appeal,^[36] which, however, was denied in its July 14, 2014 Decision.^[37]

The Court of Appeals focused on the issue of chain of custody and echoed the trial court's finding of an unbroken chain. Despite the alleged inconsistencies in the testimonies on where the seized items were marked, the Court of Appeals said that these inconsistencies "[did] not impair the credibility of the police witnesses."^[38] What is important is that, as adequately established, there was an "unbroken and continuous possession of the . . . *shabu*, from the moment of seizure up to the time they were delivered to the laboratory and later presented in court."^[39] The dispositive portion of the Court of Appeals July 14, 2014 Decision read:

WHEREFORE, premises considered, the appeal is **DENIED**. The Decision dated 08 November 2011 of the Regional Trial Court, Branch 39, Calapan, Oriental Mindoro is hereby **AFFIRMED**.

SO ORDERED.^[40]

Accused-appellant Sanchez filed a Notice of Appeal^[41] to which the Court of Appeals gave due course in its August 19, 2014 Resolution.^[42]

In its February 25, 2015 Resolution,^[43] this Court noted the records forwarded by the Court of Appeals. The parties were then ordered to file their supplemental briefs, if they so desired, within 30 days from notice.

In their respective manifestations, the People of the Philippines^[44] and accused-appellant Sanchez^[45] informed this Court that they would no longer file supplemental briefs.

Accused-appellant Sanchez maintains that the prosecution failed to prove his guilt beyond reasonable doubt. He specifically assails the inconsistent testimonies of IO1 Diocampo and IO1 Riñopa on where the seized items were marked. IO1 Diocampo testified that the sachets were marked at the barangay hall, while IO1 Riñopa recalled marking the sachets at the place of the arrest. With this discrepancy, the prosecution allegedly failed to establish the "very crucial first link in the chain of custody"^[46] of the *corpus delicti*, impairing its integrity and evidentiary value.^[47]

The People of the Philippines counters that the discrepancy of testimonies on where the seized items were marked is a "minor" detail that "does not change the fact that ... accused-appellant [Sanchez] was positively identified as the seller of prohibited drugs; and ... the chain of custody of the seized drugs was established by the prosecution."^[48]

The principal issue for resolution is whether or not the prosecution has established the elements of the crimes of sale and possession of dangerous drugs. Subsumed in this issue is whether or not an unbroken chain of custody of the seized items was established considering the differing testimonies on where the items were marked.

This appeal must be dismissed.

The sale of dangerous drugs is punished under Section 5 of the Comprehensive Dangerous Drugs Act, thus:

Section 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. — The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

The elements of the crime of selling dangerous drugs are: first, "the identity[ies] of the buyer and the seller, the object, and the consideration; and [second,] the delivery of the thing sold and the payment therefor."^[49]

On the other hand, possession of dangerous drugs is punished under Section 11 of the same Comprehensive Dangerous Drugs Act, which partly provides:

Section 11. Possession of Dangerous Drugs. —

. . . .