

## SECOND DIVISION

[ G.R. No. 224290, June 11, 2018 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
VICENTE SIPIN Y DE CASTRO, ACCUSED-APPELLANT.**

### DECISION

**PERALTA, J.:**

This is an appeal from the Court of Appeals (CA) Decision<sup>[1]</sup> dated April 16, 2015 in CA-G.R. CR-HC No. 05641, which affirmed the judgment<sup>[2]</sup> of the Regional Trial Court of Binangonan, Rizal, Branch 70, (RTC) finding accused-appellant (*appellant*) Vicente Sipin y De Castro guilty beyond reasonable doubt of violation of Sections 5 and 11, Article II of Republic Act No. (R.A.) 9165, otherwise known as the *Comprehensive Dangerous Drugs Act of 2002*, for illegal sale and illegal possession of dangerous drugs, respectively, and sentencing him as follows:

1. In Criminal Case No. 07-476, to suffer the penalty of life imprisonment and to pay a fine of Five Hundred Thousand Pesos (P500,000.00), without subsidiary imprisonment in case of insolvency.
2. In Criminal Case No. 07-477, to suffer imprisonment of twelve (12) years and one (1) day to fourteen (14) years and eight (8) months, and to pay a fine of Three Hundred Thousand Pesos (P300,000.00), without subsidiary imprisonment in case of insolvency.

The facts are as follows:

Appellant Vicente Sipin y De Castro was charged with illegal sale and illegal possession of dangerous drugs, as follows:

#### Criminal Case No. 07-476

That, on or about the 11<sup>th</sup> day of August, 2007, in the Municipality of Binangonan, Province of Rizal, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without having been authorized by law to possess any dangerous drug, did then and there willfully, unlawfully and knowingly possess and have in his custody and containing 0.02 gram of white crystalline substance contained in one (1) heat sealed transparent plastic sachet, which was found positive to the test for Methylamphetamine hydrochloride also known as "shabu", a

dangerous drug, in violation of the above-cited law.<sup>[3]</sup>

Criminal Case No. 07-477

That, on or about the 11<sup>th</sup> day of August, 2007, in the Municipality of Binangonan, Province of Rizal, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without having been authorized by law, did then and there willfully, unlawfully and knowingly sell and give away to a poseur-buyer one (1) heat sealed transparent plastic sachet containing 0.02 gram of white crystalline substance, which was found positive to the test for Methylamphetamine hydrochloride also known as "shabu", a dangerous drug, in consideration of the amount of Php100.00, in violation of the above-cited law.<sup>[4]</sup>

Upon arraignment, appellant, assisted by his counsel, pleaded not guilty to both charges. Trial ensued with the prosecution presenting as witnesses the following members of Binangonan, Rizal, Philippine National Police Station: (1) PO1 Arnel Diocena, the arresting officer; (2) PO1 Richard Raagas, the *poseur* buyer, (3) PO1 Dennis Gorospe, the back-up and investing officer; and (4) Forensic Chemist P/Insp. Mark Ballesteros.

According to the prosecution witnesses, on August 11, 2007 at about 12:00 midnight, a confidential asset arrived at the Binangonan Police Station with an information that a certain *Enteng* was selling shabu at *Barangay* Calumpang. The information was recorded in the blotter and reported to the chief, P/Supt. Herminio Cantaco, who then ordered the formation of a buy-bust team and the conduct of an operation. A *poseur* money was marked with the initials "GAD" by team leader SPO3 Gerardo Delos Reyes, and a pre-operational coordination was made with the Provincial Anti-Illegal Drugs Task Force by PO1 Gorospe.

Upon arrival aboard a motorcycle at Antazo Street, *Barangay* Calumpang, Binangonan, Rizal, PO1 Raagas and the asset went into the alley, while PO1 Diocena stayed around 3 to 6 meters away from where he could see everything. SPO3 Delos Reyes stayed in the police vehicle, while PO1 Gorospe who served as back-up was around 20 meters away. Alias *Enteng* then approached the asset and PO1 Raagas, and asked if they would buy or "i-score." When PO1 Raagas replied that he would, *Enteng* pulled out something out of his pocket and handed it to PO1 Raagas, who in turn gave *Enteng* the marked P100 bill. Thereafter, PO1 Raagas revealed himself as a police officer and removed his hat as pre-arranged signal. Upon seeing the signal, PO1 Diocena approached, ordered *Enteng* to take out the contents of his pocket, placed him under arrest, and read him his rights. PO1 Diocena confiscated the marked money and the plastic containing shabu, then turned them over to PO1 Raagas who marked the item he bought and the other plastic container confiscated by PO1 Diocena with the markings "VDS-1" and "VDS-2" in the presence of the accused, PO1 Diocena and PO1 Gorospe.

From the place of the incident to the police station, PO1 Raagas took custody and hand-carried the specimens wrapped in a bond paper, then turned them over to PO1 Gorospe, who prepared the booking sheet, the arrest report and the request for

laboratory examination of the specimens. PO1 Gorospe also took pictures of *Enteng* and the specimens in the presence of PO1 Raagas and PO1 Diocena. The specimens were then given to PO1 Diocena who brought them to the crime laboratory. P/Insp. Ballesteros personally received the request for laboratory examination and the subject specimens, which later tested positive for shabu, a dangerous drug. Results of the examination were reflected in the Initial Laboratory Report and the Chemistry/Physical Science Report. P/Insp. Ballesteros marked the sachet with marking "VDS-1" as "A" and the sachet with marking "VDS-2" as "B" before turning them over to the evidence custodian of the laboratory.

For the defense, only appellant testified. At around 10:00 p.m. of August 11, 2007, appellant was on his way home from his sister's house when he met Rolly who was an asset of the "*munisipyo*". When Rolly asked him to send a text message when he sees the notorious group of Jun Bisaya who frequents his place, appellant refused to cooperate because his life and those of his loved ones would be in danger. Rolly got angry and told him, "*Enteng alam mo naman masama akong magalit, baka kung ano lang mangyari sa iyo.*" Rolly then told appellant to just forget what they have talked about, and just accompany him to the person they were talking about. When appellant accommodated Rolly's request, in less than 20 minutes, he saw 2 male persons approaching the place where he and Rolly were talking. Rolly then said "*Sir, ayaw pong makipagtulungan sa atin.*" After Rolly held him, the person, who later turned out to be a policeman, placed his arm on appellant's shoulder then told him that he would like to talk him at the municipal building. Appellant went with the men peacefully, thinking that they would ask about Jun Bisaya. The three men tried to convince appellant to cooperate with them and told him to send a text message when he sees Jun Bisaya. Out of fear, appellant still refused to cooperate. The persons, who happened to be policemen, got angry and ordered that he be put in jail. They also brought appellant to Pritil for medical examination, and returned him to the police station where he was punched and forced to point to a shabu.

After trial, the court found appellant guilty beyond reasonable doubt of illegal sale of 0.02 gram of shabu and illegal possession of 0.02 gram of shabu, and sentenced him to suffer life imprisonment, plus a fine of P500,000.00 and imprisonment from 12 years and 1 day to 14 years and 8 months, and to pay the fine of P300,000.00, respectively.

The trial court ruled that the clear and positive testimony of PO1 Raagas, corroborated by PO1 Diocena, is more than sufficient to prove that an illegal sale of shabu took place. PO1 Raagas was able to give a clear and consistent account that an illegal drug was sold to him and another sachet was found in possession of appellant after his arrest. The court found no reason not to give full faith and credence to the testimonies of the police officers. It also upheld the presumption of regularity in the performance of official duty in favor of the police officers, since appellant failed to present clear and convincing evidence to overturn such presumption.

The trial court found no evidence to prove his defenses of denial and frame-up, and rejected appellant's claim that the police officers merely got mad at him for his refusal to send a text message in the event that he sees Jun Bisaya's notorious group. The court also noted that no relative of appellant came forward to testify, even as he supposedly wrote his siblings that he was in jail, and that they should keep such fact a secret from their parents who were sick. As regards the non-

presentation of the police asset, the court held that it was no longer necessary because it would merely corroborate the testimony of PO1 Raagas who already detailed the circumstances surrounding the illegal sale based on his personal knowledge as *poseur-buyer* during the buy-bust operation.

Anent compliance with Section 21 of R.A. No. 9165, the trial court noted that the police officers testified that there was an inventory prepared by PO1 Gorospe at the police station but failed to submit it in evidence, and that they did not have any *barangay* official or media person with them during the operation. Be that as it may, the trial court held that such non-compliance is not fatal to the prosecution's case because its evidence shows that the integrity and evidentiary value of the specimens were safeguarded. In particular, the specimens were immediately marked at the place of the incident, the chain of custody was preserved, and the evidence strongly prove beyond doubt that what was examined at the crime laboratory and found positive for shabu were the same specimens bought from appellant and found in his possession.

Aggrieved by the RTC Decision, appellant, through the Public Attorney's Office (PAO), filed an appeal.

The PAO argued that the trial court erred in giving full weight and credence to the testimonies of the prosecution witnesses, relying on the presumption of regularity in the performance of official duty in favor of the police officers, and on the appellant's failure to impute ill motive on them. The PAO also pointed out the conflicting testimonies of PO1 Diocena and PO1 Gorospe as to who actually gave PO1 Diocena the specimens before they were brought to the crime laboratory. The PAO further faulted PO1 Diocena for failing to remember and specifically name P/Insp. Ballesteros as the "*officer-on-duty*" who actually received the specimens at the crime laboratory, as well as the prosecution for failure to demonstrate the precautionary measures undertaken by the person who had temporary custody of the specimens. The PAO likewise stressed that no inventory containing the signature of the appellant, a representative from the media, any elected public official and a representative of the DOJ was presented and identified in court by the prosecution witnesses, and that no justifiable reason was offered to excuse non-compliance with Section 21(a) of R.A. No. 9165.

The Office of the Solicitor General (OSG) argued that the testimonies of PO1 Raagas and PO1 Gorospe complimented each other, and showed that the latter was actually the one who turned over the plastic sachets of shabu to PO1 Diocena, and that the handling of the sachets were always accounted for every step of the way. The OSG also asserted that PO1 Diocena's testimony that the specimens were received by a "*person-in-charge*," does not contradict the testimony of P/Insp. Ballesteros that he was the one who actually received the specimens at the crime laboratory, as such fact was corroborated by the stamp receipt on the request for chemistry evaluation. Assuming that the chain of custody of the seized drugs was not perfectly observed, the OSG stressed that what is of utmost importance is the preservation of the integrity and evidentiary value of the seized items. Thus, the procedural infirmities concerning the lack of DOJ, *Barangay* and media representatives neither affect the prosecution of the case, nor render appellant's arrest illegal or the items seized from him inadmissible.

The Court of Appeals dismissed the appeal for lack of merit, and affirmed the RTC

Decision. The CA agreed with the trial court that the integrity of the seized items were duly preserved because the prosecution has presented and offered in court the key witnesses who had established the chain of custody of the seized drugs from their confiscation from appellant, to their marking and forwarding to the crime laboratory for examination.

Dissatisfied with the CA Decision, the PAO filed this appeal. The PAO and the OSG manifested that they are dispensing with the filing of supplemental briefs to avoid repetition of arguments raised before the CA.

The Court finds the appeal to be impressed with merit, and resolves to acquit appellant of the charges of illegal possession and illegal sale of dangerous drugs for failure to establish the unbroken chain of custody of said drugs, and to proffer any justifiable ground for the non-compliance with Section 21 of R.A. No. 9165.

For a successful prosecution of an offense for illegal sale of dangerous drugs, on the one hand, the following essential elements must be proven: (1) the identity of the buyer and the seller, the object of the sale, and the consideration; and (2) the delivery of the thing sold and the payment therefor.<sup>[5]</sup> The delivery of the illicit drug to the *poseur*-buyer and the receipt of the marked money by the seller successfully consummate the buy-bust transaction. What is material, therefore, is the proof that the transaction or sale transpired, coupled with the presentation in court of the *corpus delicti*, as evidence.<sup>[6]</sup> In prosecutions for illegal possession of dangerous drugs, on the other hand, it must be shown that (1) the accused was in possession of an item or an object identified to be a dangerous drug; (2) such possession is not authorized by law; and (3) the accused was freely and consciously aware of being in possession of the drug.<sup>[7]</sup> The existence of the drug is the very *corpus delicti* of the crime of illegal possession of dangerous drugs and, thus, a condition *sine qua non* for conviction.<sup>[8]</sup>

Since the *corpus delicti* in dangerous drugs cases constitutes the dangerous drugs itself,<sup>[9]</sup> proof beyond reasonable doubt that the seized item is the very same object tested to be positive for dangerous drugs and presented in court as evidence is essential in every criminal prosecution under R.A. No. 9165. To this end, the prosecution must establish the unbroken chain of custody of the seized items, thus:

The rule on chain of custody expressly demands the identification of the persons who handle the confiscated items for the purpose of duly monitoring the authorized movements of the illegal drugs and/or drug paraphernalia from the time they are seized from the accused until the time they are presented in court. Moreover, as a method of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered in evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain.