

SECOND DIVISION

[G.R. No. 229826, July 30, 2018]

**PEOPLE OF THE PHILIPPINES PLAINTIFF-APPELLEE, V.
PATRICIA CABRELLOS Y DELA CRUZ, ACCUSED-APPELLANT.**

DECISION

PERLAS-BERNABE, J.:

Before the Court is an ordinary appeal^[1] filed by accused-appellant Patricia Cabrellos y Dela Cruz (Cabrellos) assailing the Decision^[2] dated September 13, 2016 of the Court of Appeals (CA) in CA-G.R. CR H.C. No. 02020, which affirmed the Joint Judgment^[3] dated February 25, 2015 of the Regional Trial Court of Bais City, Negros Oriental, Branch 45 (RTC) in Crim. Case Nos. 05-0163-A and 05-0162-A finding Cabrellos guilty beyond reasonable doubt of the crimes of Illegal Sale of Dangerous Drugs and Illegal Possession of Dangerous Drugs, defined and penalized under Sections 5 and 11, respectively, of 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 Cabrellos with violations of Sections 5 and 11, Article II of RA 9165, the accusatory portions of which read:

Crim. Case No. 05-0163-A

That on September 22, 2005 at about 12:45 in the afternoon at Barangay Iniban, Ayungon, Negros Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, without lawful authority, did then and there willfully, unlawfully and feloniously SELL and DELIVER to a poseur buyer Methamphetamine Hydrochloride locally known as *Shabu*, weighing 0.08 gram, a dangerous drug.

Contrary to law.^[6]

Crim. Case No. 05-0162-A

That on September 22, 2005 at 12:45 in the afternoon, more or less, at Barangay Iniban, Ayungon, Negros Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, did then and there willfully, unlawfully and feloniously have in her possession, control and custody, 0.64 gram of Methamphetamine Hydrochloride, locally known as *Shabu*, a dangerous drug, without lawful authority.

Contrary to law.^[7]

The prosecution alleged that on September 22, 2005 and acting upon a tip from a confidential informant regarding Cabrellos's alleged illegal drug activities in Ayungon, Negros Oriental, the Philippine Drug Enforcement Agency and the Provincial Anti-Illegal Drugs Special Operations Group organized a buy-bust team, with PO3 Allen June Germodo (PO3 Germodo) acting as poseur-buyer and PO2 Glenn Corsame (PO2 Corsame) as immediate back-up. The buy-bust team, together with the informant, then went to Cabrellos's house. Thereat, the informant introduced PO3 Germodo as a *shabu* buyer. After PO3 Germodo gave Cabrellos the two (2) marked P500.00 bills, Cabrellos took out two (2) plastic sachets containing suspected *shabu* from her bag and handed it over to PO3 Germodo. Upon receipt of the sachets, PO3 Germodo placed Cabrellos under arrest, with the rest of the buy-bust team rushing to the scene. The police officers searched Cabrellos's bag and discovered seventeen (17) more sachets containing suspected *shabu* therein. The police officers then brought Cabrellos and the seized items to the Ayungon Police Station for the conduct of photography and inventory of the seized items. However, since only a barangay *kagawad* was present at the Ayungon Police Station at that time, the police officers brought Cabrellos and the seized items to the Dumaguete Police Station wherein they conducted a second inventory, this time in the presence of a representative each from the DOJ and the media. Thereafter, the seized sachets were brought to the crime laboratory where the contents thereof were confirmed to be methamphetamine hydrochloride or *shabu*.^[8]

In her defense, Cabrellos testified that she was inside her house tending to her child when suddenly, two (2) unidentified persons came into their house looking for her husband. When she told them that her husband was not around, she was brought to the police station for selling *shabu*, and there, made to sign a document already signed by a barangay official. She was detained for three (3) months at the Dumaguete Police Station before she was transferred to Bais City Jail.^[9]

The RTC Ruling

In a Joint Judgment^[10] dated February 25, 2015, the RTC convicted Cabrellos of the crimes charged, and accordingly, sentenced her as follows: (a) in Criminal Case No. 05-0163-A, to suffer the penalty of life imprisonment, and to pay a fine of P500,000.00; and (b) in Criminal Case No. 05-0162-A, to suffer the penalty of imprisonment for an indeterminate period of twelve (12) years and one (1) day to fourteen (14) years, and to pay a fine of P300,000.00.^[11]

The RTC found that the prosecution was able to establish Cabrellos's guilt beyond reasonable doubt, considering that: (a) she was caught in *flagrante delicto* selling *shabu* to the poseur-buyer; and (b) in the search incidental to her arrest, she was discovered to be in possession of seventeen (17) more sachets of *shabu*. On the other hand, it did not give credence to Cabrellos' bare denial as it stood weak in the face of the detailed and candid testimonies of the prosecution's witnesses.^[12]

Aggrieved, Cabrellos appealed^[13] to the CA.

The CA Ruling

In a Decision ^[14] dated September 13, 2016, the CA affirmed the RTC ruling.^[15] It held that the testimonies of the police officers had established the fact that Cabrellos was caught in the act of selling illegal drugs, and that in the course of her

arrest, she was found in possession of more sachets containing illegal drugs. In this regard, the CA ruled that the police officers substantially complied with the chain of custody requirement as the identity and evidentiary value of the seized items were duly established and preserved. [16]

Hence, this appeal.

The Issue Before the Court

The issue for the Court's resolution is whether or not Cabrellos is guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of RA 9165.

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.[17] "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." [18]

In this case, Cabrellos was charged with Illegal Sale and Illegal Possession of Dangerous Drugs, respectively defined and penalized under Sections 5 and 11, Article II of RA 9165. 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.[19] 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.[20] In both instances, case law instructs that 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 the identity of the dangerous drugs, 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 their presentation in court as evidence of the crime.[21]

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.[22] Under the said section, prior to its amendment by RA 10640, [23] 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.^[24] In the case of *People v. Mendoza*,^[25] 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 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."^[26]

The Court, however, clarified that under varied field conditions, strict compliance with the requirements of Section 21, Article II of RA 9165 may not always be possible.^[27] In fact, the Implementing Rules and Regulations (IRR) of RA 9165 – which is now crystallized into statutory law with the passage of RA 10640^[28] – 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, Article II 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.**^[29] In other words, the failure of the apprehending team to strictly comply with the procedure laid out in Section 21, Article II 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.^[30] In *People v. Almorfe*,^[31] **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.**^[32] Also, in *People v. De Guzman*,^[33] 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.**^[34]

After a judicious study of the 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 dangerous drugs allegedly seized from Cabrellos.

Initially, it would appear that the arresting officers complied with the witness requirement during inventory, as seen in the Receipt of Property Seized^[35] dated September 22, 2005 which contains the signatures of the required witnesses, *i.e.*, a public elected official, a representative from the DOJ, and a representative from the media. However, no less than PO3Germodo admitted in open court that they actually conducted two (2) separate inventories in different places and in the presence of different witnesses. Pertinent portions of his direct testimony read:

[Pros. Yuseff Cesar Ybañez, Jr.]: After you were able to make the said marking, were you able to take pictures with the accused inside her

house?

[PO3 Germodo]: No, sir. We only took pictures **during the inventory at the police station of Ayungon.**

x x x x

Q: Mr. Witness, after you have prepared, and signed of the properties seized and gone with the markings of the property seized, what did you do then, if any?

A: We conducted the inventory of the confiscated items **together with the witness, the [B]rgy. Kagawad Raul Fausto and he signed the inventory.**

Q: And after Raul Fausto signed the inventory, what happened then, if any?

A: Since there was no report from the media [and] the Department of Justice, **we proceeded to Dumaguete City.**

Q: Where did you proceed in Dumaguete City?

A: In our office.

Q: Where is your office located?

A: **It is located at PNP compound, Locsin St., Dumaguete City.**

Q: After you arrived there, what happened then?

A: I called the media representative and the DOJ.

Q: And did they arrive, the media representative and the DOJ representative?

A: Yes.

Q: After they arrived, what transpired at your office?

A: We conduct (*sic*) again an inventory.

Q: After conducting the second inventory, what did you do then, if any?

A: After the inventory we made a request for PNP crime laboratory.^[36]
(Emphases and underscoring supplied)

From the foregoing testimony, it is clear that the arresting officers conducted two (2) separate inventories, both of which are glaringly non compliant with the required witnesses rule: (a) in the inventory conducted at the Ayungon Police Station, only a public elected official – Brgy. *Kagawad* Raul Fausto – was present thereat; and (b) on the other hand, the inventory conducted at the Dumaguete Police Station was witnessed only by representatives from the DOJ and the media. To make matters worse, the arresting officers attempted to cover up such fact by preparing a single inventory sheet signed by the witnesses at different times and places. Verily, the chain of custody rule laid down by RA 9165 and its IRR contemplates a situation where the inventory conducted on the seized items is witnessed by the required personalities at the same time. The wordings of the law leave no room for any piecemeal compliance with the required witnesses rule as what happened in this case. Otherwise, the avowed purpose of the required witnesses rule – which is to prevent the evils of switching, planting, or contamination of the *corpus delicti* resulting in the tainting of its integrity and evidentiary value – will be greatly diminished or even completely negated.