

SECOND DIVISION

[G.R. No. 234154, July 23, 2018]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. JERRY ARBUIS Y COMPRADO A.K.A. "ONTET", ACCUSED-APPELLANT.

DECISION

REYES, JR., J:

This is an Ordinary Appeal^[1] filed by Jerry Arbuís y Comprado a.k.a. "Ontet" (accused-appellant) assailing the Decision^[2] dated June 19, 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07066, which affirmed the Decision^[3] promulgated on September 24, 2014 of the Regional Trial Court (RTC) of Naga City, Branch 61 in Criminal Case No. 2012-0112, finding accused-appellant guilty beyond reasonable doubt of violation of Section 11, Article II of Republic Act (R.A.) No. 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002."

The Facts

In an Information, accused-appellant was charged before the RTC for violating Section 11, Article II of R.A. No. 9165, *viz.*:

That on or about March 01, 2012, in the City of Naga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law and without prescription or corresponding license, did then and there, willfully, unlawfully and criminally have in his possession, custody and control five (5) heat-sealed transparent plastic sachets containing methamphetamine hydrochloride or shabu all weighing more or less 11.221 grams which is a dangerous drug in violation of the above-cited law.

Contrary to law.^[4]

On arraignment, accused-appellant pleaded "not guilty." Trial ensued thereafter.

The facts, as summarized by the appellate court, reads:

On March 1, 2012, at around 5:00p.m., Director 3 Archie Grande of the Philippine Drug Enforcement Agency (PDEA) Regional Office V, coordinated with the Naga City Police Station, and requested for a joint operation between the PDEA and the police regarding the implementation of Search Warrant 2012-35 issued by the RTC against accused-appellant, at the latter's residence located at Sitio Sagrada Familia, Barangay Peñafrancia, Naga City.^[5]

At around 5:20 p.m., the composite team proceeded to the target site. Upon arrival at the target site, the composite team secured the area, and waited for the arrival of the accused-appellant and the witnesses whose presence are required during searches. When the accused-appellant arrived, he was informed of the

implementation of the search warrant against him. Shortly thereafter, the required witnesses arrived, namely: Rodrigo Borigas (Borigas) (Department of Justice [DOJ] representative), Barangay Kagawad Demetrio Nisolada (Nisolada) (elected public official), and Eutiquio Agor (Agor) (media representative). After the content of the warrant was read to the accused-appellant, the composite team started to search his house. During the search, Intelligence Officer II Mailene S. Laynesa (IO2 Laynesa) found five (5) plastic sachets containing white crystalline substance. She placed the markings "MSL 3/1/12" on the plastic sachets seized from the accused-appellant. Photographs were likewise taken. Thereafter, the Certificate of Inventory were signed by the three witnesses. A receipt of property seized and Certificate of Orderly Search was likewise prepared in the presence of the accused and the three witnesses.^[6]

At around 2:00 a.m., the composite team brought the accused appellant to the Naga police station for further investigation and proper documentation. Since it was nearly 3:00 a.m., the PDEA agents went straight to the PDEA office in Pacol and rested. IO2 Laynesa locked the seized items in a drawer and kept the lone key to said lock. In the morning of March 2, 2012, IO2 Laynesa brought the seized items to the Camarines Sur Provincial Crime Laboratory Office for examination. From the time of seizure until turnover to the forensic chemist of the crime laboratory, IO2 Laynesa had full and uninterrupted custody of the drugs. Police Senior Inspector Jun Malong, the forensic chemist who received the request and the seized items and likewise performed the qualitative and quantitative examination on the specimen, cited in his Chemistry Report. No. D-41-2012 that the specimen weighed a total of 11.221 grams and was indeed methamphetamine hydrochloride (*shabu*), a dangerous drug.^[7]

In a Decision^[8] dated September 24, 2014, the RTC rendered a judgment of conviction, the dispositive portion of which reads:

WHEREFORE, on moral certainty, accused JERRY ARBUIS y COMPRADO is CONVICTED of illegal possession of dangerous drugs penalized under Sec. 11, Art. II of RA 9165, and is sentenced to suffer the penalty of life imprisonment and a fine of four hundred thousand pesos (P400,000.00).

SO ORDERED.^[9]

On appeal to the CA, the appellate court affirmed the findings of the trial court and held that there was proof beyond reasonable doubt to convict the accused-appellant of the crime of illegal possession of dangerous drugs. The dispositive portion of the CA Decision^[10] dated June 19, 2017 reads:

We **DISMISS** the appeal, and **AFFIRM** the Decision dated 24 September 2014 of the [RTC], Branch 61, Naga City, in Criminal Case No. 2012-0112.

IT IS SO ORDERED.^[11]

Hence, the present appeal.

The Issue

The sole issue to be resolved is whether or not the CA was correct in affirming the conviction of the accused-appellant for violation of Section 11, Article II or R.A. No. 9165.

Ruling of the Court

For the successful prosecution of illegal possession of dangerous drugs, the following essential elements must be established: (a) the accused is in possession of an item or object that is identified to be a prohibited or dangerous drug; (b) such possession is not authorized by law; and (c) the accused freely and consciously possesses the said drug.

The prosecution must prove beyond reasonable doubt not only every element of the crime or offense charged but must likewise establish the identity of the *corpus delicti*, i.e., the seized drugs. To convince the Court that the identity and integrity of the *corpus delicti* has been preserved, the prosecution must prove that there was compliance with the procedure laid down in Section 21^[12] of R.A. No. 9165, specifically the requirements from the time of seizure up to the time the seized item is presented in court as this will ultimately determine the fate of the accused.

Contrary to the accused-appellant's claim that there was a "break" in the chain of custody, a perusal of the records reveal that the arresting officers complied with the requirements of Section 21. *First*, it is not disputed that IO2 Laynesa had custody of the seized items from the time of seizure up to the time it was brought to the crime laboratory for examination. *Second*, the requirements of marking, inventory and photograph were complied with and was conducted in the presence of the accused-appellant and the required witnesses, namely: Borigas (DOJ representative), Nisolada (elected public official), and Agor (media representative). *Third*, the sole reason why IO2 Laynesa was unable to immediately turnover the seized item to the crime laboratory was because it was already 3:00 a.m. - clearly beyond office hours. Moreover, the seized items remained in her custody as she locked it up in the meantime and had the lone key to the drawer. The fact that she brought it to the crime laboratory for testing that very same morning negates the accused-appellant's claim that such deviation destroyed the presumption of regularity in the performance of duty.

A perfect chain of custody is almost always impossible to achieve and so the Court has previously ruled that minor procedural lapses or deviations from the prescribed chain of custody are excused so long as it can be shown by the prosecution that the arresting officers put in their best effort to comply with the same and the justifiable ground for non-compliance is proven as a fact.

In *People v. Umipang*,^[13] the Court held that minor deviations from the procedures under R.A. No. 9165 would not automatically exonerate an accused from the crimes of which he or she was convicted. This is especially true when the lapses in procedure were recognized and explained in terms of justifiable grounds. **There must also be a showing that the police officers intended to comply with the procedure but were thwarted by some justifiable consideration/reason.** However, when there is gross disregard of the procedural safeguards prescribed in the substantive law (R.A. No. 9165), serious uncertainty is generated about the identity of the seized items that the prosecution presented in evidence. This uncertainty cannot be remedied by simply invoking the presumption of regularity in the performance of official duties, for a gross, systematic, or deliberate disregard of