

## SECOND DIVISION

[ G.R. No. 225783, August 20, 2018 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
CHRISTOPHER BAPTISTA Y VILLA, ACCUSED-APPELLANT.**

### DECISION

**PERLAS-BERNABE, J.:**

Before the Court is an ordinary appeal<sup>[1]</sup> filed by accused-appellant Christopher Baptista y Villa (Baptista) assailing the Decision<sup>[2]</sup> dated September 11, 2015 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06275, which affirmed *in toto* the Decision<sup>[3]</sup> dated June 11, 2013 of the Regional Trial Court of Laoag City, Branch 13 (RTC) in Crim. Case No. 14935-13 finding him guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. (RA) 9165,<sup>[4]</sup> otherwise known as the "Comprehensive Dangerous Drugs Act of 2002."

### The Facts

This case stemmed from an Information<sup>[5]</sup> filed before the RTC, charging Baptista with the crime of Illegal Sale of Dangerous Drugs, the accusatory portion of which states:

That on or about 7:30 o'clock in the evening of October 3, 2011 at Brgy. 3, [M]unicipality of San Nicolas, province of Ilocos Norte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully, feloniously and knowingly sell one (1) [heat-sealed] transparent plastic sachet containing methamphetamine hydrochloride, commonly known as "*shabu*," a dangerous drug, weighing 0.0389 gram, worth Five Hundred Pesos (Php500.00) to poseur-buyer, IO1 DEXTER D. REGASPI, without the necessary license or authority from the appropriate government agency or authority to do so.

CONTRARY TO LAW.<sup>[6]</sup>

The prosecution alleged that at around five (5) o'clock in the afternoon of October 3, 2011, a confidential informant (CI) told Intelligence Officer 1 (IO1) Dexter D. Regaspi (IO1 Regaspi) that a certain Christopher Baptista alias "Toti" was selling *shabu* at Brgy. 8, San Nicolas, Ilocos Norte and other nearby barangays. The CI and IO1 Regaspi then arranged a meet-up with Baptista who, however, could not sell them *shabu* worth P500.00 at the time because he had no available stock. As such,

IO1 Regaspi and the CI returned to the office where they planned a buy-bust operation.<sup>[7]</sup> At around seven (7) o'clock in the evening, the buy-bust team went to the transaction area. IO1 Regaspi gave the marked money to Baptista, who, in turn, handed over one (1) heat-sealed plastic sachet. After examining the same, IO1 Regaspi executed the pre-arranged signal by removing his ball cap and immediately declared his authority as a Philippine Drug Enforcement Agency (PDEA) agent, while Police Officer 3 Joey P. Aninag (PO3 Aninag) and the rest of the buy-bust team rushed to the scene.<sup>[8]</sup> IO1 Regaspi then marked the plastic sachet with his initials "DDR," but since it was about to rain, the requisite inventory could not be conducted. Thus, the team went back to the PDEA Office wherein IO1 Regaspi prepared the inventory<sup>[9]</sup> of the seized items in the presence only of a media representative, while IO1 Ranel Cañero took photographs<sup>[10]</sup> of the same.<sup>[11]</sup> After the requests for laboratory<sup>[12]</sup> and medical examinations<sup>[13]</sup> were made, the apprehending officers proceeded to the Ilocos Norte Police Provincial Crime Laboratory Office, where they were informed that there was no chemist available.<sup>[14]</sup>

Eventually, at around 4:30 in the morning of the following day, they proceeded to the PDEA Regional Office 1 Regional Laboratory in San Fernando, La Union where the seized item tested positive for the presence of methamphetamine hydrochloride, or *shabu*, a dangerous drug.<sup>[15]</sup>

In his defense, Baptista denied the charges against him.<sup>[16]</sup> He claimed that in the evening of October 3, 2011, he was on his way to the *tiangge* located in front of a church to drink with a friend. Before reaching the *tiangge*, however, some unknown men grabbed and handcuffed him and shortly after, he and his friend were brought to an office where he was accused by the PDEA agents of selling *shabu*. Later, at around two (2) o'clock in the morning of the following day, the PDEA agents took him to the municipal hall.<sup>[17]</sup>

### **The RTC Ruling**

In a Decision<sup>[18]</sup> dated June 11, 2013, the RTC found Baptista guilty beyond reasonable doubt of the crime of Illegal Sale of Dangerous Drugs, and accordingly, sentenced him to suffer the penalty of life imprisonment and to pay a fine in the amount of P500,000.00.<sup>[19]</sup> It ruled that the prosecution proved all the elements of the crime charged, as it was established that Baptista sold the seized drug to IOI Regaspi in exchange for the P500.00 marked money recovered from him.<sup>[20]</sup> On the other hand, it held that his unsubstantiated defense of denial could not prevail over the credible testimonies of the prosecution witnesses who positively identified him as the seller of the said drug.<sup>[21]</sup>

Moreover, the RTC found that the buy-bust team complied with the procedural requirements under Section 21, Article II of RA 9165.<sup>[22]</sup> It ruled that the conduct of inventory and photography in the PDEA Office was valid, even if the same were made without the presence of a barangay official and a representative from the Department of Justice (DOJ), since the same provision principally requires the presence of the accused during the inventory, which was complied with.<sup>[23]</sup>

Aggrieved, Baptista appealed<sup>[24]</sup> to the CA.

### **The CA Ruling**

In a Decision<sup>[25]</sup> dated September 11, 2015, the CA affirmed *in toto* the ruling of the RTC.<sup>[26]</sup> Among others, it ruled that the apprehending officers' non-compliance with the requirements under Section 21, Article II of RA 9165 was amply justified, considering that the integrity and evidentiary value of the seized drug were properly preserved.<sup>[27]</sup>

Hence, the instant appeal.

### **The Issue Before the Court**

The issue for the Court's resolution is whether or not Baptista's conviction for the crime of Illegal Sale of Dangerous Drugs should be upheld.

### **The Court's Ruling**

The appeal is meritorious.

Preliminarily, 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.<sup>[28]</sup> "The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine the records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law."<sup>[29]</sup>

In this case, Baptista was charged with the crime of Illegal Sale of Dangerous Drugs, defined and penalized under Section 5, Article II of RA 9165. In every prosecution for Illegal Sale of Dangerous Drugs, it is essential that the following elements are proven with moral certainty: (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.<sup>[30]</sup> Case law states that it is equally essential that the identity of the prohibited drug be established beyond reasonable doubt, considering that the prohibited drug itself forms an integral part of the *corpus delicti* of the crime. The prosecution has to show an unbroken chain of custody over the dangerous drug so as to obviate any unnecessary doubts on the identity of the dangerous drug on account of switching, "planting," or contamination of evidence. Accordingly, the prosecution must be able to account for each link of the chain of custody from the moment the illegal drugs are seized up to their presentation in court as evidence of the crime.<sup>[31]</sup>

In this regard, 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.<sup>[32]</sup> Under the said section, prior to its amendment

by RA 10640,<sup>[33]</sup> 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 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 Philippine National Police Crime Laboratory within twenty-four (24) hours from confiscation for examination.<sup>[34]</sup> In the case of *People v. Mendoza*,<sup>[35]</sup> 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."<sup>[36]</sup>

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.<sup>[37]</sup> In fact, the Implementing Rules and Regulations (IRR) of RA 9165 – which is now crystallized into statutory law with the passage of RA 10640<sup>[38]</sup> – 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.**<sup>[39]</sup> Tersely put, 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.<sup>[40]</sup> In *People v. Almorfe*,<sup>[41]</sup> **the Court stressed 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.**<sup>[42]</sup> Also, in *People v. De Guzman*,<sup>[43]</sup> 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.**<sup>[44]</sup>

After a judicious study of the case, the Court finds that the apprehending officers committed unjustified deviations from the prescribed chain of custody rule, thereby putting into question the integrity and evidentiary value of the items purportedly seized from Baptista.

Records disclose that while the inventory and photography of the seized plastic sachet were conducted in the presence of Baptista and a representative from the

media, the same were not done in the presence of an elected public official and a representative from the DOJ as required by the rules prevailing at that time (*i.e.*, Section 21, Article II of RA 9165, prior to its amendment by RA 10640). In their testimonies, both IO1 Regaspi and PO3 Aninag explicitly admitted these lapses, *viz.*:

### **IO1 Regaspi on Cross-examination**

[Atty. Wayne Manuel]: When inventory was done at your office, we noticed in the Certificate of Inventory that a certain Jaezem Ryan Gaces of the Bomba Radyo, Laoag City was present, is that what you mean?

[IO1 Regaspi]: Yes, sir.

Q: At what point in time did he come?

A: At around 8:20, sir.

Q: At around 8:20 and of course, you had to call him?

A: Yes, sir.

**Q: You did not call for any barangay officials?**

**A: We called for the barangay officials but the barangay officials did not come, sir.**

**Q: You did not try to call any member of the DOJ?**

**A: No, sir.**

x x x x<sup>[45]</sup> (Emphases and underscoring supplied )

### **PO3 Aninag on Direct Examination**

[Prosecutor Robert Garcia]: Aside from you, who were also present in the conduct of inventory if you still recall?

[PO3 Aninag]: One of the members of the media who is from Bombo Radyo.

x x x x<sup>[46]</sup>

The absence of the aforementioned required witnesses does not *per se* render the confiscated items inadmissible.<sup>[47]</sup> However, a justifiable reason for such failure or a **showing of any genuine and sufficient effort to secure the required witnesses** must therefore be adduced.<sup>[48]</sup>

In this case, IO1 Regaspi did not provide a sufficient explanation why no barangay official was present during the requisite inventory and photography. Simply stating