

FIRST DIVISION

[G.R. No. 233207, August 20, 2018]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ANTHONY MADRIA Y HIGAYON, ACCUSED-APPELLANT.**

DECISION

TIJAM, J.:

Before the Court is an appeal^[1] from the Court of Appeals' (CA's) Decision^[2] dated March 8, 2017 in CA-G.R. No. CR-HC No. 01357-MIN, affirming the Decision^[3] dated October 27, 2014 of the Regional Trial Court (RTC) of Cagayan de Oro City, Branch 25, convicting accused-appellant Anthony Madria y Higayon (Madria) for violation of: (1) Section 11 (possession), Article II of Republic Act (R.A.) No. 9165 in Criminal Case No. 2010-001 for illegal possession of *shabu*; and (2) Section 5 (selling), Article II of R.A. No. 9165^[4] in Criminal Case No. 2010-002 for illegal sale of *shabu*.

The Facts of the Case

The judgment of convictions stemmed from two criminal Informations, the accusatory portions of each, read:

Criminal Case No. 2010-001

That on or about December 28, 2009, at more or less 6:25 o'clock in the evening, at Ramonal St., Barangay 29, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law to possess or use any dangerous drugs, did then and there willfully, unlawfully, criminally, and knowingly have in his possession, custody, and control, six (6) small heat-sealed transparent plastic sachets containing Methamphetamine Hydrochloride, locally known as Shabu, a dangerous drug, with a total weight of 0.42 gram, accused well-knowing that the substance recovered from his possession is a dangerous drug.^[5]

Criminal Case No. 2010-002

That on or about December 28, 2009, at more or less 6:25 o'clock in the evening, at Ramonal St., Barangay 29, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating, and mutually helping one another, without being authorized by law to sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drugs, did then and there willfully, unlawfully, criminally, and knowingly sell and/or offer for sale, and give away to a poseur-buyer One (1) small heat-sealed transparent plastic sachet containing

Methamphetamine Hydrochloride, locally known as Shabu, a dangerous drug, weighing 0.02 gram, accused knowing the same to be a dangerous drug in consideration of Five Hundred pesos (Php500.00) with Serial No. EL 240363, which was previously marked for the purpose of the buy-bust operation.^[6]

Upon arraignment, both appellant Madria and Lorenzo De Ala (De Ala) entered a plea of "Not Guilty" to the crimes charged. Joint trial of the cases ensued.

The Prosecution's Version

The prosecution presented the following witnesses, namely: Philippine Drug Enforcement Agency (PDEA) Officer-in-Charge IA5 Joseph Theodore Atila (IA5 Atila); IO1 Naomie Siglos (IO1 Siglos); IO2 Neil Vincent Pimentel (IO2 Pimentel); and, Forensic Chemist PS1 Charity P. Caceres (Caceres).^[7]

On December 28, 2009, IA5 Atila entertained a "walk-in" civilian informant (CI), disclosing that accused Madria and De Ala were engaged in illegal drug activities. Acting on this information, IA5 Atila formed a team consisting of IO1 Siglos, as poseur-buyer and IO2 Pimentel as the back-up and arresting officer.^[8]

At around 6:00 p.m., IO2 Pimentel and IA5 Atila rode on separate vehicles and proceeded to the area of operation in Justo Ramonal Street, Brgy. 29, Cagayan de Oro City. Thereafter, the CI and IO1 Siglos rode on a taxi and followed them. Upon arrival at the area, the CI alighted from the taxi and approached Madria and De Ala who were standing outside a store. They followed the CI toward the place where the taxi was parked. Madria stood at the right side of the taxi's door, while De Ala stood at the left side. When the right side door of the taxi opened, De Ala asked IO1 Siglos, who was still inside the taxi, as to how much she was going to buy, but IO1 Siglos insisted to see the shabu first. De Ala turned to Madria, who then handed to him a small heat-sealed transparent plastic sachet. De Ala in turn gave it to IO1 Siglos. After examining the sachet, IO1 Siglos gave the buy-bust money to De Ala, who then passed it to Madria. Immediately, IO1 Siglos "missed-called" IO2 Pimentel, as the pre-arranged signal that the sale had already been consummated. IO2 Pimentel and the rest of the buy-bust team rushed in and arrested appellant Madria and De Ala. IO2 Pimentel bodily searched Madria and De Ala and recovered six (6) heat-sealed plastic sachets from Madria, including the marked money, but nothing was recovered from De Ala.^[9]

Upon noticing that it was already dark and the crowd was getting bigger, IA5 Atila ordered his team to withdraw from the area with the two accused, so as not to compromise the safety of the buy-bust team. Thereafter, they proceeded to the PDEA office, where IO2 Pimentel marked with his initial the confiscated items, *i.e.*, one (1) heat-sealed plastic sachet and six (6) heat-sealed plastic sachets; prepared the inventory receipts; and took pictures thereof.^[10]

At around 9:30 p.m., IO2 Pimentel and the other PDEA agents, together with the two accused, went to the Philippine National Police (PNP) Crime Laboratory and requested the examination of both accused and the seized items. Caceres received the specimen, *i.e.*, one (1) transparent plastic sachet of white crystalline substance weighing 0.02 gram; and another six (6) sachets of white crystalline substance

weighing a total of 0.42 grams. The examination yielded positive for Methamphetamine Hydrochloride known as *shabu*. Also, the urine sample taken from both accused tested positive for shabu.^[11]

The Defense' Version

The defense presented as its witnesses, the accused Madria and De Ala.

Madria testified that in the afternoon of December 28, 2009, while he was walking towards Gaisano Store at Cogon Street to have the "LCD" of his cellphone repaired, a driver from a parked Toyota Revo vehicle asked him twice if he knew the place where a PDEA agent committed suicide; that when he ignored the question and walked away, he felt his nape struck by someone. Afterwards, he was handcuffed and forced to board a vehicle with his face covered. When he alighted from the vehicle, the cover of his face was removed. He then realized that he was at the PDEA office together with De Ala. He was forced to point at the items placed on top of the table. When he refused, he was mauled.^[12]

As for De Ala, he testified that he was working as a taxi driver; that at around 6:25 p.m. of December 28, 2009, while he was waiting for his shift reliever, a vehicle stopped in front of him. Three men approached with their guns pointed at him and ordered him not to run. He was forced to board the vehicle while his face was covered, and he sensed the presence of another person, whom he later on recognized to be Madria. When he disembarked the vehicle, the cover of his eyes was removed. Like Madria, he too was forced to identify the items on top of the table. He insisted that he neither signed any inventory receipt, nor was he given a copy of the same. He denied that he sold one (1) sachet of *shabu* to a PDEA agent.^[13]

The Trial Court's Ruling

On October 27, 2014, the RTC rendered its Decision, the dispositive portion of which reads:

WHEREFORE, premises considered, this Court hereby finds that:

1. In Criminal Case No. 2010-001, accused ANTHONY MADRIA Y HIGAYON is hereby found GUILTY BEYOND REASONABLE DOUBT of the offense defined and penalized under Section 11, Article II of R.A. 9165 and each is hereby sentenced to an indeterminate penalty of IMPRISONMENT ranging from twelve (12) years and one (1) day to thirteen (13) years, and to pay a Fine in the amount of P300,000.00 without subsidiary imprisonment in case of non-payment of Fine;
2. In Criminal Case No. 2010-002, accused ANTHONY MADRIA Y HIGAYON and LORENZO DE ALA are GUILTY BEYOND REASONABLE DOUBT of the crime defined and penalized under Section 5, Article II of R.A. 9165, and hereby sentences him to a penalty of LIFE IMPRISONMENT and for each of them to pay a Fine in the amount of Five Hundred Thousand Pesos [P500,000.00] without subsidiary imprisonment in case of non-payment of Fine.

x x x x

SO ORDERED.^[14]

The CA's Ruling

In questioning the RTC's decision, both accused Madria and De Ala appealed their conviction with the CA.^[15] The appeal, however, was denied in the CA's decision^[16] dated March 8, 2017, and succinctly disposed as follows:

FOR THESE REASONS, the Judgment in Criminal Case Nos. 2010-001 and 2010-002 appealed from is AFFIRMED *in toto*.

SO ORDERED.^[17]

Thereafter, only accused Madria filed this instant petition^[18] raising this sole assignment of error:

THE PROSECUTION FAILED TO PROVE THE GUILT OF THE ACCUSED- APPELLANT BEYOND REASONABLE DOUBT.

The Court's Ruling

The petition is meritorious.

While a buy-bust operation has been proven to be "an effective way to flush out illegal transactions that are otherwise conducted covertly and in secrecy, it has a significant downside that has not escaped the attention of the framers of the law. It is susceptible to police abuse, the most notorious of which is its use as a tool for extortion."^[19] Thus, courts have been exhorted to be extra vigilant in trying drug cases lest an innocent person is made to suffer the unusually severe penalties for drug offenses.^[20] Accordingly, specific procedures relating to the seizure and custody of drugs have been that the prosecution must adduce evidence that these procedures have been followed^[21] in light with the chain of custody rule in drug cases.

The Guidelines on the Custody and Disposition of Seized Dangerous Drugs, Controlled Precursors and Essential Chemicals and Laboratory Equipment^[22] defines "chain of custody" as follows:

Section 1 (b) - "Chain of Custody" means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction. Such record of movements and custody of seized item shall include the identity and signature of the person who held temporary custody of the seized item, the date and time when such transfer of custody were made in the course of safekeeping and use in court as evidence, and the final disposition[.]

Corollary thereto, in *Junie Mallillin y Lopez v. People of the Philippines*,^[23] the Court explained that 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. Thus:

x x x It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered into 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. These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same.

^[24]

We find merit in Madria's protestations that the prosecution failed to establish the charges against him due to the gaps in the chain of custody and due to the assailable integrity of the evidence in view of the police officers' non-compliance with Section 21,^[25] Article II of R.A. No. 9165 and its Implementing Rules and Regulations (IRR).^[26]

In *Howard Lescano y Carreon v. People of the Philippines*,^[27] this Court briefly discussed the rigid requirements under Sec. 21, Article II of R.A. No. 9165, on the marking, inventory, and photographing of the contraband seized, including the personalities required to be present during the buy-bust operation, thus:

As regards the items seized and subjected to marking, Section 21(1) of the Comprehensive Dangerous Drugs Act, as amended, requires the performance of two (2) actions: physical inventory and photographing. Section 21(1) is specific as to when and where these actions must be done. As to when, it must be "immediately after seizure and confiscation." As to where, it depends on whether the seizure was supported by a search warrant. If a search warrant was served, the physical inventory and photographing must be done at the exact same place that the search warrant is served. In case of warrantless seizures, these actions must be done "at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable."

Moreover, Section 21(1) requires at least three (3) persons to be present during the physical inventory and photographing. These persons are: first, the accused or the person/s from whom the items were seized; second, an elected public official; and third, a representative of the National Prosecution Service. There are, however, alternatives to the first and the third. As to the first (i.e., the accused or the person/s from whom items were seized), there are two (2) alternatives: first, his or her representative; and second, his or her counsel. As to the representative of the National Prosecution Service, a representative of the media may be present in his or her place.^[28]