

SECOND DIVISION

[G.R. No. 234052, August 06, 2018]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MARICEL PATACSIL Y MORENO, ACCUSED-APPELLANT.**

D E C I S I O N

PERLAS-BERNABE, J.:

Before the Court is an ordinary appeal^[1] filed by accused-appellant Maricel Patacsil y Moreno (Patacsil) assailing the Decision^[2] dated March 30, 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07298, which affirmed the Joint Decision^[3] dated February 5, 2015 of the Regional Trial Court of Dagupan City, Branch 44 (RTC) in Crim. Case Nos. 2012-0497-D and 2012-0498-D, finding Patacsil guilty beyond reasonable doubt of violating Sections 5 and 11, 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 Patacsil with the crimes of Illegal Sale and Illegal Possession of Dangerous Drugs, the accusatory portions of which state:

Criminal Case No. 2012-0497-D

That on or about the 28th of September 2012, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, **MARICEL PATACSIL [y] MORENO**, did then and there, willfully, unlawfully and criminally, have in her possession, custody and control Methamphetamine Hydrochloride (*Shabu*) contained in five (5) sealed plastic sachets, all weighing .357 gram, without authority to possess the same.

Contrary to Article II, Section 11, R.A. 9165.^[6]

Criminal Case No. 2012-0498-D

That on or about the 28th day of September 2012, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused **MARICEL PATACSIL [y] MORENO**, did then and there, willfully, unlawfully and criminally, sell and deliver to a poseur-

buyer Methamphetamine Hydrochloride (*Shabu*) contained in one (1) heat-sealed plastic sachet, weighing more or less 0.033 gram, in exchange for P300.00, without authority to do so.

Contrary to Article II, Section 5, R.A. 9165.^[7]

The prosecution alleged that at around two (2) o'clock in the afternoon of September 28, 2012 and acting upon a tip of an asset regarding Patacsil's purported illegal drug activities at Torio's Compound, Sitio Silungan, Bonuan, Binloc, Dagupan City, the police officers of the Dagupan Police Station organized a buy-bust operation with PO3 Francisco S. Meniano, Jr. (PO3 Meniano) acting as the poseur-buyer. Upon arriving at the target area, the asset introduced PO3 Meniano to Patacsil as someone who wanted to buy *shabu*. When PO3 Meniano handed over the marked money to Patacsil, the latter took out one (1) plastic sachet containing suspected *shabu* from her cellphone pouch and gave the same to PO3 Meniano. As soon as PO3 Meniano ascertained the plastic sachet's contents, he performed the pre-arranged signal, prompting the buy-bust team to rush in and arrest Patacsil. During the arrest, the police officers inspected Patacsil's cellphone pouch and recovered five (5) more plastic sachets containing white crystalline substance therefrom. The buy-bust team then took Patacsil and the seized plastic sachets, first to the hospital for medical examination, and thereafter, to the police station for marking and inventory procedures. Finally, the seized plastic sachets were taken to the PNP Crime Laboratory where it was confirmed that they indeed contain methamphetamine hydrochloride or *shabu*,^[8] a dangerous drug.^[9]

In her defense, Patacsil pleaded not guilty to the charges against her and offered her version of the events. She narrated that on the day she was arrested, she just arrived home after visiting her live-in partner in jail, when suddenly, six (6) men in civilian clothes appeared in front of her house, with two of them putting their hands around her shoulder, and at a gun point, told her to kneel down in front of her house. After the men briefly searched her abode, she was then taken to the police station where she was forbidden to talk to her relatives. She was then taken to a hospital for medical reasons, and subsequently charged with the aforesaid crimes.^[10]

The RTC Ruling

In a Joint Decision^[11] dated February 5, 2015, the RTC found Patacsil guilty beyond reasonable doubt of the crimes charged, and accordingly, sentenced her as follows: (a) in Criminal Case No. 2012-0497-D, to suffer the penalty of imprisonment for an indeterminate period of twelve (12) years and one (1) day to twenty (20) years, and to pay a fine in the amount of P300,000.00; and (b) in Criminal Case No. 2012-498-D to suffer the penalty of life imprisonment and to pay a fine in the amount of P500,000.00.^[12]

The RTC held that the prosecution was able to establish all the elements of the crimes charged as it was shown that Patacsil sold to PO3 Meniano one (1) plastic sachet of *shabu*, and that after her arrest, five (5) more plastic sachets of *shabu*

were found in her possession. It found that Patacsil's bare denial cannot overcome the positive testimony of the police officers who conducted the buy bust operation. It likewise observed that Patacsil failed to advance ill motives on the part of the police officers to impute such grave crimes against her, as she even admitted during cross examination that she came to know PO3 Meniano only when the latter testified during trial.^[13]

Aggrieved, Patacsil appealed^[14] to the CA.

The CA Ruling

In a Decision^[15] dated March 30, 2017, the CA affirmed the RTC ruling *in toto*.^[16] It upheld Patacsil's conviction, holding that the prosecution had established beyond reasonable doubt all the elements of the crimes charged. It further ruled that PO3 Meniano's failure to immediately mark the seized items and to let the witnesses sign the confiscation receipt does not *ipso facto* result in unlawful arrest nor in the inadmissibility of evidence, as long as the integrity and evidentiary value of the seized items were preserved.^[17] It found that contrary to Patacsil's claim, she was validly arrested *in flagrante delicto*, thereby, making the seized items admissible.^[18]

Hence, this appeal.

The Issue Before the Court

The issue for the Court's resolution is whether or not the CA correctly upheld Patacsil's conviction for the crimes charged.

The Court's Ruling

The appeal has merit.

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.^[19] "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."^[20]

Here, Patacsil was charged with the crimes of Illegal Sale and Illegal Possession of Dangerous Drugs, respectively defined and penalized under Sections 5 and 11, Article II of RA 9165. Notably, 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.^[21] 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.^[22]

Case law states that in both instances, 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.^[23]

In this relation, 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.^[24] Under the said section, prior to its amendment by RA 10640,^[25] 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.

^[26] In the case of *People v. Mendoza*,^[27] 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."^[28]

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.^[29] In fact, the Implementing Rules and Regulations (IRR) of RA 9165 – which is now crystallized into statutory law with the passage of RA 10640^[30] – 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.**^[31] 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.^[32] In *People v. Almorfe*,^[33] **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.**^[34] Also, in *People v. De Guzman*,^[35] 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.**^[36]

After a judicious study of the case, the Court finds that the arresting 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 Patacsil.

Here, a plain examination of PO3 Meniano's handwritten Confiscation Receipt^[37] dated September 28, 2012 – which stood as the inventory receipt – shows that while PO3 Meniano claims that representatives from the media witnessed the conduct of inventory, no such representatives signed the document. Further, it also appears that no public elected official was present when such inventory was made. When asked about these procedural deviations by both the prosecution and defense lawyers, PO3 Meniano testified as follows:

[Prosecutor Ann Karen Go]: This confiscation receipt states the serial nos. as well as number of sachets that you were able to buy and confiscate from Maricel Patacsil, it also states that the witnesses are media representatives, **who were the media representatives because they are not named in this confiscation receipt?**

[PO3 Meniano]: There are two (2) media representatives present but I could no longer remember, they are from GMA and ABS-CBN.

Q: Can you tell this Honorable Court the reason why they did not sign this confiscation receipt, Mr. Witness?

A: Because I was in a hurry in submitting the confiscation receipt, I forgot to let them sign.

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[Atty, Sylvania Vinoya-Gonzales]: Mr. Witness, you forgot to invite barangay officials and you forgot to ask the media representatives to gn as witnesses. Why, how many were you during that time, where was the Investigator?

[PO3 Meniano]: I did not forget to call them. They were not around.

Q: Who were not around?

A: The barangay officials.

Q: What about the media representatives?

A: It is because the *shabu* was asked to be submitted so, we