

SECOND DIVISION

[G.R. No. 214472, November 28, 2018]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. NOVA
DE LEON Y WEVES, ACCUSED-APPELLANT.**

D E C I S I O N

CAGUIOA, J:

Before the Court is an ordinary appeal^[1] filed by accused-appellant Nova De Leon y Weves (accused-appellant De Leon) assailing the Decision^[2] dated October 31, 2013 of the Court of Appeals, Sixth (6th) Division (CA), in CA-G.R. CR.-HC No. 05465, which affirmed the Decision^[3] dated February 27, 2012 of the Regional Trial Court (RTC) of the City of Paranaque, Branch 259 in Criminal Case No. 09-0617, finding accused-appellant De Leon guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. (RA) 9165,^[4] otherwise known as the "Comprehensive Dangerous Drugs Act of 2002."

The Facts

An Information^[5] was filed against accused-appellant De Leon for violating Section 5, Article II of RA 9165, the accusatory portion of which reads:

That on or about the 31st day of May, 2009, in the City of Parañaque, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized by law, did then and there willfully, unlawfully and feloniously sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport a one (1) heat-sealed transparent plastic sachet weighing 0.01 gram to Police Poseur Buyer SPO1 Luminog Lumabao, which contents of the said plastic sachet when tested was found positive to be **Methamphetamine Hydrochloride**, a dangerous drug.

CONTRARY TO LAW.

Parañaque City

June 1, 2009^[6]

When arraigned, accused-appellant De Leon entered a plea of not guilty to the charge.^[7]

After pre-trial, the prosecution and defense admitted the following: (1) identity of the accused; (2) the jurisdiction of the trial court; (3) that PI Abraham Verde Tecson (PI Tecson) would testify on the fact that he was the one who conducted the examination on the specimen subject matter of this case; (4) that PI Tecson reduced his findings into Physical Science Report No. D-268-09S stating therein that the specimen he examined gave positive result for Methamphetamine Hydrochloride,

and (5) that PI Tecson is not an eyewitness to the circumstances leading to the arrest of accused-appellant De Leon.^[8]

Thereafter, trial on the merits ensued. The prosecution presented SPO1 Luminog Lumabao^[9] (SPO1 Lumabao) and SPO1 Ricky Macaraeg (SPO1 Macaraeg). The defense, on the other hand, presented accused-appellant De Leon.^[10] The prosecution's version of events as well as that of the defense was summarized by the RTC as follows:

FOR THE PROSECUTION

[SPO1 LUMABAO]

He testified that on May 31, 2009 at around 5:30 in the afternoon, an informant went to their office at the Station Anti-Illegal Drugs Special Operations Task Force (SAIDSOTF) of the Para[ñ]aque City Police, and reported the illegal drug activities of a certain "Nova De Leon" along the area of Mayuga St., Brgy. Tambo, Para[ñ]aque City. The same was relayed to their chief, Col. Alfredo Valdez, who formed a team to conduct a buy bust operation against the suspect. He x x x was designated poseur buyer tasked to purchase Php 200.00 worth of *shabu* from the suspect, with SPO1 Ricky Macaraeg, PO2 Domingo Julaton, PO2 Elbert Ocampo and SPO2 Alberto Sanggalang as back-up operatives. After preparing the Pre-Operation and Coordination Form submitted to the PDEA, the team, with the informant, proceeded to the target area. Upon arrival, he x x x and the informant alighted first while the rest of the team discreetly followed. They spotted the suspect standing in an alley whom they approached. He x x x was introduced to the suspect as a bus driver in need of *shabu*. The suspect replied that she had some with her. He x x x handed the suspect the buy bust money and in turn, the suspect handed him a sachet of suspected *shabu*. At this juncture, he x x x then executed the pre-arranged signal of removing his cap to signal the rest of the team that the transaction had materialized. SPO1 Macaraeg rushed to their location and they effected the arrest of the accused. He x x x instructed the suspect to empty her pockets, to which SPO1 Macaraeg recovered the buy bust money, but they did not recover any more illegal drugs in her possession. They brought the suspect to the Barangay Hall of Tambo, Para[ñ]aque City and requested Tanod Melchor Alconaba to witness the preparation of the inventory. There, he x x x placed the markings "LL" on the recovered evidence in his custody, which stand for the initials of his name Luminog Lumabao and the date of arrest indicated as 05/31/09 and he likewise prepared the inventory of recovered/seized evidence, signed by Tanod Alconaba as witness. They identified the suspect as Nova De Leon y Weves whom he identified in court. At the Barangay Hall, pictures were taken of the accused and the recovered evidence, the inventory together with the Barangay Tanod. From the Barangay Hall, they proceeded to their office at Brgy. La Huerta, Para[ñ]aque City where the Booking Sheet and Arrest Report of the accused was prepared. Their investigator, PO2 Domingo Julaton, prepared a request for laboratory examination. He x x x brought the specimen to PNP Crime Laboratory for examination on the same date and the same later on tested positive for methamphetamine hydrochloride as

shown in Physical Science Report No. D-268-09S. They executed a joint affidavit relative to the arrest of the accused. He identified the specimen subject of the sale (Exhibit "B-1"), the request of examination (Exhibit "A"), Physical Science Report No. D-268-09S (Exhibit "C"), the Joint Affidavit (Exhibit "D"), the Pre-Operation Report and Coordination Forms (Exhibits "E" and "F"), the pictures taken at the Barangay Hall (Exhibits "H" to "L"), the inventory (Exhibit "G"), the Spot Report (Exhibit "M") and the Booking Sheet of the accused (Exhibit "N").

On cross examination, he testified that the team arrived at the target area at around 7:25 in the evening. They spotted the accused standing in an alley. The transaction lasted for only about five (5) to ten (10) minutes. He placed markings on the recovered specimen at the Barangay Hall and not at the scene of arrest as it was raining at [that] time. There was no representative from the DOJ or media present during the inventory. He personally placed markings on the buy bust money but he was not able to include the buy bust money in the inventory at the time the pictures were taken.

On re-direct examination, he testified that there was no available representative from the media or the DOJ as it was raining hard at the time. He inadvertently failed to include the buy bust money in the inventory as he was focused on the sachet of *shabu*.

[SPO1 MACARAEG]

He testified that they arrested the accused on May 31, 2009 at around 7:25 in the evening at Mayuga St., Tambo, Parañaque City, in a buy bust operation. SPO1 Lumabao was the designated poseur buyer while he (Macaraeg) was an immediate back-up operative. He placed himself about 10 to 15 meters from where the transaction was made and he could see the actuations made during the transaction. He rushed to SPO1 Lumabao's location after seeing the latter execute the pre-arranged signal of removing his cap to signal them that the transaction had materialized. When the rest of the team arrived, they introduced themselves as police officers and apprised the accused of her rights. SPO1 Lumabao was in custody of the sachet of *shabu* subject of the sale. He x x x instructed the accused to empty her pockets and was able to recover from her the buy bust money. SPO1 Lumabao placed markings on the *shabu* subject of the sale. They executed a joint affidavit relative to the arrest of the accused. SPO1 Lumabao prepared an inventory in the presence of Tanod Alconaba. Pictures were taken of the accused, the evidence recovered and during the inventory at the Brgy. Hall of Tambo.

On cross examination, he testified that he could only see the actuations but the conversation during the transaction was inaudible to him. He confirmed that the transaction had materialized after SPO1 Lumabao executed the pre-arranged signal or removing his cap.

x x x x

FOR THE DEFENSE

[Accused-appellant DE LEON] As appearing in her Judicial Affidavit (Exhibit "1"), the contents of which she affirmed in court, she testified that on June 02, 2009 at around 2:00 o'clock in the afternoon, she was at her house at Brgy. Tambo, Parañaque City. She heard someone knocking at the door, and when she opened it, a man suddenly entered and asked about the whereabouts of a certain "Bolaret Mayuga." She told the man that she did not know the person and he does not live there. She was forced to point to where Mayuga was and insisted that he live in the area. She was then brought to the Drug Enforcement Unit (DEU) where she was threatened that if she does not cooperate in pointing to the whereabouts of Mayuga, she would remain there. The police asked from her money in exchange for her liberty but she refused to give any as she did not do anything illegal. She was told that charges would be filed against her. She was incarcerated and was charged for violation of Section 5 of RA 9165. She denies the charge filed against her.

On cross examination, she testified that it was the first time she saw the men who arrested her. Prior to her arrest, she did not have any misunderstanding or untoward encounter with the policemen who arrested her.^[11]

Ruling of the RTC

In its Decision^[12] dated February 27, 2012, the RTC convicted accused-appellant De Leon of the crime charged. The dispositive portion of the said Decision reads:

WHEREFORE, premises considered the court finds accused **NOVA WEVES DE LEON in Criminal Case No. 09-0617 for Violation of Section 5, Article II of RA 9165, GUILTY** beyond reasonable doubt and is hereby sentenced to suffer the penalty of life imprisonment and to pay a fine of Php 500,000.00.

Further it appearing that the accused **NOVA WEVES DE LEON** is detained at the Parañaque City Jail and considering the penalty imposed, the OIC-Branch Clerk of Court is hereby directed to prepare the *Mittimus* for the immediate transfer of said accused from the Parañaque City Jail to the Women's Correctional Facility, Mandaluyong City.

The specimen are forfeited in favor of the government and the OIC-Branch Clerk of Court is likewise directed to immediately turn over the same with dispatch to the Philippine Drug Enforcement Agency (PDEA) for proper disposal pursuant to Supreme Court OCA Circular No. 51-2003.

SO ORDERED.^[13]

The RTC gave full weight and credit to the version of events of the prosecution ruling that while the arresting officers failed to strictly comply with the requirements of Section 21 of RA 9165 relative to the preparation of the inventory, there was substantial compliance with said law and the integrity of the drug seized from accused-appellant De Leon was preserved.^[14]

Aggrieved, accused-appellant De Leon appealed to the CA.

Ruling of the CA

In the assailed Decision,^[15] the CA sustained accused-appellant De Leon's conviction and held that the prosecution sufficiently discharged its burden of establishing the elements of illegal sale of dangerous drugs and proving accused-appellant De Leon's guilt beyond reasonable doubt.^[16] The CA further held that in violation of RA 9165, credence is given to the prosecution witnesses who are police officers, for they are presumed to have performed their duties in a regular manner.^[17] It also ruled that there is a valid justification for the arresting officers' non-compliance with the requirements of Section 21 of RA 9165,^[18] and at any rate, the prosecution was able to adequately show the continuous and unbroken possession and subsequent transfer of the illegal drug from the time it was confiscated up to the time the marked plastic sachet of *shabu* was offered in court.^[19] Thus, the failure of the police officers to make an inventory and to take a photograph of the seized drug as required under Section 21 of RA 9165, will not render accused-appellant De Leon's arrest and the item seized from her inadmissible.^[20]

Hence, the instant appeal.^[21]

Issue

Whether or not accused-appellant De Leon's guilt for violating Section 5, Article II of RA 9165 was proven beyond reasonable doubt.

The Court's Ruling

The appeal is meritorious. The Court acquits accused-appellant De Leon for failure of the prosecution to prove her guilt beyond reasonable doubt.

The buy-bust team failed to comply with the requirements of Section 21.

In this case, accused-appellant De Leon was charged with the crime of illegal sale of dangerous drugs, defined and penalized under Section 5, Article II of RA 9165. To sustain a conviction for illegal sale of dangerous drugs, the prosecution must prove the following elements: (1) the identity of the buyer and the seller, the object and the consideration; and (2) the delivery of the thing sold and the payment therefor.^[22]

In cases involving dangerous drugs, the confiscated drug constitutes the very *corpus delicti* of the offense^[23] and the fact of its existence is vital to sustain a judgment of conviction.^[24] It is essential, therefore, that the identity and integrity of the seized drugs must be established with moral certainty.^[25] The prosecution must prove, beyond reasonable doubt, that the substance seized from the accused is exactly the same substance offered in court as proof of the crime. Each link to the chain of custody must be accounted for.^[26]

This resonates even more in buy-bust operations because "by the very nature of anti-narcotics operations, the need for entrapment procedures, the use of shady characters as informants, the ease with which sticks of marijuana or grams of heroin can be planted in pockets or hands of unsuspecting provincial hicks, and the secrecy that inevitably shrouds all drug deals, the possibility of abuse is great."^[27]