

## SECOND DIVISION

[ G.R. No. 238906, November 05, 2018 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
FEDERICO CUEVAS Y MARTINEZ, ACCUSED-APPELLANT.**

### D E C I S I O N

**PERLAS-BERNABE, J.:**

Assailed in this ordinary appeal<sup>[1]</sup> is the Decision<sup>[2]</sup> dated August 31, 2017 of the Court of Appeals (CA) in CA-G.R. CR HC No. 08624, which affirmed the Judgment<sup>[3]</sup> dated August 31, 2016 of the Regional Trial Court of Calamba City, Laguna, Branch 37 (RTC) in Crim. Case Nos. 21940-2014-C and 21942-2014-C, finding accused-appellant Federico Cuevas y Martinez (Cuevas), *inter alia*, guilty beyond reasonable doubt of Illegal Sale and Illegal Possession of Dangerous Drugs, respectively defined and penalized under Sections 5 and 11, 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 three (3) Informations<sup>[5]</sup> charging Cuevas of violating, *inter alia*, Sections 5, 11, and 12, Article II of RA 9165. The prosecution alleged that at around ten (10) o'clock in the morning of January 10, 2014, operatives of the Philippine National Police Intelligence Branch, Laguna Police Provincial Office (PNP-IB-LPPO), in coordination with the Philippine Drug Enforcement Agency (PDEA), conducted a buy-bust operation against Cuevas, during which: (a) he allegedly sold a plastic sachet containing 0.04 gram of suspected methamphetamine hydrochloride or *shabu* to the poseur-buyer; (b) during the search incidental to his arrest, two (2) plastic sachets containing an aggregate weight of 0.17 gram<sup>[6]</sup> of suspected methamphetamine hydrochloride or *shabu*, as well as various drug paraphernalia, were recovered from him. After marking the seized items, the apprehending officers took Cuevas to the barangay hall where the items were inventoried and photographed in the presence of Barangay Councilor Marcelino P. Ameglio, Department of Justice (DOJ) representative Noemi Quiloy, and media representative Zen Trinidad. Cuevas and the seized items were then taken to the police station where a request for laboratory examination was prepared, and thereafter, such request and the seized items were taken to the crime laboratory. After qualitative examination,<sup>[7]</sup> the seized items tested positive for methamphetamine hydrochloride or *shabu*, a dangerous drug.<sup>[8]</sup>

For his part, Cuevas denied the charges against him. He narrated that on the date and time he was arrested, he was in his house, together with his live-in partner and three (3) children, when suddenly, a police officer peeked inside, pointed a gun at him, and called him "Tolit." Cuevas told them that he was not "Tolit Garcia," but the

police officers did not believe him and instead, started searching his house for *shabu*. When the police did not find any, they hit him and took him to the police station where he was forced to admit ownership of a box allegedly recovered from his house. Thereafter, he learned that he was already charged with crimes involving illegal drugs.<sup>[9]</sup>

In a Judgment<sup>[10]</sup> dated August 31, 2016, the RTC found Cuevas guilty beyond reasonable doubt of Illegal Sale and Illegal Possession of Dangerous Drugs, and accordingly, sentenced him as follows: (a) in Criminal Case No. 21940-2014-C for Illegal Sale of Dangerous Drugs, he was sentenced to suffer the penalty of life imprisonment and to pay a fine of P500,000.00; and (b) in Criminal Case No. 21942-2014-C for Illegal Possession of Dangerous Drugs, he was sentenced to suffer the penalty of imprisonment for an indeterminate period of twelve (12) years and one (1) day, as minimum, to fourteen (14) years, as maximum, and to pay a fine of P300,000.00. He was, however, acquitted in Criminal Case No. 21941-2014-C for Illegal Possession of Drug Paraphernalia for failure of the prosecution to prove his guilt beyond reasonable doubt.<sup>[11]</sup> In so ruling, the RTC found that the prosecution had established his guilt beyond reasonable doubt for Illegal Sale and Illegal Possession of Dangerous Drugs, as he was caught selling *shabu* during the conduct of a legitimate buy-bust operation, and during the search incidental to his arrest, two (2) more plastic sachets containing *shabu* were recovered from him. The RTC also found that the integrity and evidentiary value of the items seized from Cuevas were preserved as the apprehending officers substantially complied with the chain of custody rule.<sup>[12]</sup> Aggrieved, Cuevas appealed the RTC ruling to the CA.

In a Decision<sup>[13]</sup> dated August 31, 2017, the CA affirmed the RTC ruling. It held that Cuevas was caught *in flagrante delicto* to be selling *shabu* during a buy-bust operation and that the additional sachets found in his possession were recovered pursuant to a search incidental to his lawful arrest. Further, the CA ruled that the integrity and evidentiary value of the items seized from Cuevas were preserved.<sup>[14]</sup>

Hence, this appeal seeking that Cuevas' conviction be overturned.

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

The appeal is without merit.

The elements of Illegal Sale of Dangerous Drugs under Section 5, Article II of RA 9165 are: (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; while the elements of Illegal Possession of Dangerous Drugs under Section 11, Article II of RA 9165 are: (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.<sup>[15]</sup> Here, the courts *a quo* correctly found that all the elements of the crimes charged are present, as the records clearly show that Cuevas was caught *in flagrante delicto* selling *shabu* to the poseur-buyer, SPO1 Andulay, during a legitimate buy-bust operation conducted by PNP-IB-LPPO in coordination with the PDEA; and that two (2) other plastic sachets containing *shabu* were recovered from him during the search made incidental to his arrest. Since

there is no indication that the said courts overlooked, misunderstood or misapplied the surrounding facts and circumstances of the case, the Court finds no reason to deviate from their factual findings as the trial court was in the best position to assess and determine the credibility of the witnesses presented by both parties.<sup>[16]</sup>

Further, the Court notes that the buy-bust team had sufficiently complied with the chain of custody rule under Section 21, Article II of RA 9165.

In cases for Illegal Sale and/or Possession of Dangerous Drugs under RA 9165, it is essential that the identity of the dangerous drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime.<sup>[17]</sup> Failing to prove the integrity of the *corpus delicti* renders the evidence for the State insufficient to prove the guilt of the accused beyond reasonable doubt, and hence, warrants an acquittal.<sup>[18]</sup>

To establish the identity of the dangerous drug with moral certainty, the prosecution must be able to account for each link of the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime.<sup>[19]</sup> As part of the chain of custody procedure, the law requires, *inter alia*, that the marking, physical inventory, and photography of the seized items be conducted immediately after seizure and confiscation of the same. In this regard, case law recognizes that "[m]arking upon immediate confiscation contemplates even marking at the nearest police station or office of the apprehending team."<sup>[20]</sup> Hence, the failure to immediately mark the confiscated items at the place of arrest neither renders them inadmissible in evidence nor impairs the integrity of the seized drugs, as the conduct of marking at the nearest police station or office of the apprehending team is sufficient compliance with the rules on chain of custody.<sup>[21]</sup>

The law further requires that the said inventory and photography be done in the presence of the accused or the person from whom the items were seized, or his representative or counsel, as well as certain required witnesses, namely: (a) if **prior** to the amendment of RA 9165 by RA 10640,<sup>[22]</sup> "a representative from the media **and** the [DOJ], and any elected public official";<sup>[23]</sup> or (b) if **after** the amendment of RA 9165 by RA 10640, "[a]n elected public official and a representative of the National Prosecution Service **or** the media."<sup>[24]</sup> The law requires the presence of these witnesses primarily "to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence."<sup>[25]</sup>

In this case, it is glaring from the records that after Cuevas was arrested during the buy-bust operation and subsequently searched, the buy-bust team immediately took custody of the seized plastic sachets and conducted the marking thereof at the place where Cuevas was arrested. Thereafter, the buy-bust team proceeded to the barangay hall to conduct the inventory and photography of the seized items in the presence of an elected public official, a DOJ representative, and a media representative. The plastic sachets were then secured, taken to the police station, and thereafter, to the crime laboratory where they tested positive for *shabu*. Finally, the same specimens were duly identified in court. In view of the foregoing, the Court holds that there is sufficient compliance with the chain of custody rule, and thus, the integrity and evidentiary value of the *corpus delicti* have been preserved. Perforce, Cuevas' conviction must stand.