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FIRST DIVISION

[G.R. No. 224143, June 28, 2017]

KEVIN BELMONTE Y GOROMEO, PETITIONER, V. PEOPLE OF THE PHILIPPINES, RESPONDENT.

D E C I S I O N

PERLAS-BERNABE, J.:

Before the Court is a petition for review on *certiorari*[1] filed by petitioner Kevin Belmonte y Goromeo (Belmonte) assailing the Decision[2] dated June 30, 2015 and the Resolution[3] dated March 14, 2016 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 05362, which affirmed the Decision[4] dated November 23, 2011 of the Regional Trial Court of San Fernando City, La Union, Branch 30 (RTC) in: (1) Crim. Case No. 8979, finding Belmonte, Mark Anthony Gumba y Villaraza (Gumba), and Billy Joe Costales (Costales) guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. (RA) 916,[5] otherwise known as the "Comprehensive Dangerous Drugs Act of 2002;" and (2) Crim. Case No. 8997, finding Gumba guilty beyond reasonable doubt of violating Section 11, Article II, thereof.

The Facts

The instant case stemmed from two (2) separate Informations[6] filed before the RTC accusing: (1) Belmonte, Gumba,[7] and Costales of violating Section 5,[8] Article II of RA 9165; and (2) Gumba of violating Section 11,[9] Article II of RA 9165, *viz*.:

> **Criminal Case No. 8979**
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> That on or about the 23rd day of November 2010, in the Municipality of San Gabriel, Province of La Union, Philippines, and within the jurisdiction of this Honorable Court the above-named accused, without first securing the necessary permit, license or prescription from the proper government agency, **conspiring, confederating, and mutually helping one another**, did then and there wilfully, unlawfully, feloniously and knowingly sell, dispense and/or deliver one (1) bundle of dried marijuana fruiting tops[,] a dangerous drug, weighing EIGHT HUNDRED TWENTY[-]EIGHT POINT NINETY SIX (828.96) gram[s] to 103 SHARON O. BAUTISTA, who posed as a buyer thereof using marked money consisting of four (4) pieces of five hundred pesos (P 500.00) BILLS, BEARING Serial Nos. KN 368332, EV933163, HH157963 and HL685267, respectively.
>
> CONTRARY TO LAW.[10]
>
> **Criminal Case No. 8997**

> That on or about the 23rd day of November 2010, in the Municipality of San Gabriel, Province of La Union, Philippines, and within the jurisdiction of this Honorable Court the above-named accused, 17 years old minor (child in conflict with the law and who acted with discernment), without first securing the necessary permit, license, or prescription from the proper government agency, did then and there wilfully, unlawfully, feloniously have in his possession, control and custody four (4) bricks of marijuana dried leaves and fruiting tops with an individual weight of EIGHT HUNDRED SIXTY[-]NINE POINT SIXTEEN (869.16) grams, EIGHT HUNDRED TWENTY[-]EIGHT POINT THIRTY[-]THREE (828.33) grams, EIGHT HUNDRED TWELVE POINT FORTY (812.40) grams and EIGHT HUNDRED NINE POINT FIFTY[-]FOUR (809.54) grams with a total weight of THREE THOUSAND THREE HUNDRED NINETEEN POINT FORTY[]THREE (3,319.43) grams.
>
> CONTRARY TO LAW. [11]

The prosecution alleged that at around 9 o'clock in the morning of November 23, 2010, Philippine Drug Enforcement Agency (PDEA) Agent Sharon Ominga (Ominga) [12] received information from a confidential informant (agent) that a certain "Mac-Mac," later identified as Gumba,[13] was selling marijuana.[14] Ominga immediately coordinated with the PDEA Quick Reaction Force (QRF) and the Philippine National Police (PNP) Provincial Anti-Illegal Drug Special Operation Task Group (PAIDSOTG) and a buy-bust team composed of Ominga, Intelligence Officer 1 Ranel Cañero (Cañero), and members of the PDEA-QRF and PNP-PAIDSOTG was formed.[15] Ominga was designated as the poseur-buyer, Cañero as arresting officer, and the rest as back-up officers.[16] Ominga then instructed the agent to contact Gumba and place an order for P2,000.00 worth of marijuana. Thereafter, Ominga prepared four (4) P500.00 bills as buy-bust money, marked them with her initials, and proceeded with the rest of the buy-bust team to the public cemetery of San Gabriel, La Union, the designated place for the transaction.[17]

Upon the buy-bust team's arrival at the target area, Ominga, Cañero, and the agent walked towards the cemetery while the back-up officers waited in the vehicle.[18] As Gumba was taking long to arrive, Ominga's group decided to return to their vehicle. But as they were walking, Gumba and two (2) male companions came into view.[19] When the three (3) men reached Ominga's group, one of Gumba's companions, who turned out to be Belmonte,[20] asked if they were the buyers.[21] The agent confirmed this, after which Gumba asked for the money from Cañero.[22] Cañero pointed to Ominga, who motioned to hand the marked money to Gumba but Gumba's other companion, later identified as Costales,[23] took it.[24] Gumba then took a bundle of suspected dried marijuana leaves from the black bag he was carrying and handed it to Ominga.[25] Believing that it was marijuana, Ominga declared that they were PDEA agents.[26] Ominga and Cañero were able to arrest Gumba and Belmonte but Costales escaped with the marked money.[27]

Ominga's group waited for the local police and barangay officials to arrive before opening the black bag which, in the meantime, lay on the ground in front of Belmonte and Gumba.[28] When police officers Manzano, Campit, and Barangay Captain[29] Carlos D. Caoeng arrived, Ominga opened the black bag which yielded

four (4) more bricks of dried marijuana wrapped in masking tape.[30] Ominga then took a knife and slashed a small portion of each brick to see the contents. Satisfied that it was marijuana, she placed her initials "SOB," signature, and the date of confiscation on the outside of each bundle, including the bundle earlier sold to them.[31] Ominga's group then prepared an inventory, photographed the activity, and asked the PNP and barangay officials to sign the inventory.[32]

Thereafter, Ominga's group returned to the PDEA office in San Fernando, La Union where Ominga prepared the request for laboratory examination[33] dated November 23, 2010, among other necessary documents.[34] Ominga then delivered the seized items to the PDEA for crime laboratory examination.[35] In her report, PDEA Regional Officer 1 Chemist Lei-Yen Valdez (Valdez), the chemist who conducted the quantitative and qualitative examination on the seized drugs, confirmed that the seized bricks and bundle contained marijuana.[36]

For their defense, Belmonte, Gumba, and Costales (who subsequently surrendered voluntarily) all denied the charges against them and claimed that they were in the wrong place at the wrong time. Belmonte averred that in the morning of November 23, 2010, he and his wife walked to the town proper of San Gabriel, La Union from their barangay in Mamleng-Bucao, San Gabriel, La Union as he intended to proceed to Bauang, La Union to get a duck from his aunt.[37] Upon reaching Barangay Bumbuneg, San Gabriel, La Union, he stopped at Gumba's house to borrow fifty pesos (P50.00) from Gumba.[38] Gumba lent him the money but requested Belmonte to accompany him to the cemetery to visit his grandfather's tomb.[39] Belmonte agreed and they rode Costales'[40] tricycle but the two had to alight at Lipay Road because there was *palay* laid out on the road leading to the cemetery.[41] As Belmonte and Gumba walked up the road going to the cemetery, they were apprehended by two (2) men later on identified as Cañero and Atty. Allan Ancheta (Atty. Ancheta) of the PDEA-QRF.[42]

Gumba corroborated Belmonte's testimony and admitted knowing Belmonte from high school and Costales from elementary.[43] At around 10 o'clock in the morning of November 23, 2010, Gumba was allegedly home in Bumbuneg, San Gabriel, La Union when Belmonte came to borrow money (P50.00) which the latter intended to use for his fare going to his aunt in Bauang, La Union.[44] Gumba gave Belmonte the money and requested the latter to accompany him to the cemetery so he could visit his grandfather's tomb.[45] They rode Costales' tricycle to the cemetery and as they continued walking towards the cemetery, two (2) men approached them - one carrying a black bag and wearing a hat, and another who wore short pants and a black shirt.[46] Gumba was allegedly held by the man in short pants, later on identified as Atty. Ancheta, while Belmonte was held by the one with the black bag, later on identified as Cañero.[47] Gumba struggled to free himself but was trapped by another man - a tall man with big body build who he later discovered to be police officer Jose Bautista.[48] Bautista allegedly hit Gumba in the head with a small gun and asked "why do you still try to escape?"[49]

Meanwhile, Costales advanced the defense of alibi. He claimed that on November 23, 2010, while on his way back to the parking area for tricycles in San Gabriel, La Union, he was flagged down by Belmonte and Gumba who were his batchmates

from elementary.[50] Belmonte and Gumba asked to be brought to the cemetery but they had to alight at Lipay Road because the tricycle could not pass through the road.[51] After dropping them off, he returned to the tricycle station near the Municipal Hall and market where he joined other tricycle drivers.[52] While sitting in a nearby canteen, he learned that two (2) minors were arrested at the cemetery and saw a police patrol car pass by with Belmonte and Gumba on board.[53] Seeing that they were brought to the police station nearby, Costales and the other tricycle drivers proceeded to the police station where they stayed for approximately fifteen (15) minutes before returning to the tricycle station.[54] On January 22, 2011, while vacationing in Baguio City, his uncle informed him that there is a warrant for his arrest.[55] He returned to San Gabriel, La Union on January 24 and surrendered voluntarily to police officer Campit who was his neighbor.[56]

Upon arraignment, Belmonte, Gumba, and Costales all pleaded not guilty to the charges against them.[57] After the preliminary conference in both cases, the RTC ordered that joint trial be conducted.[58]

The RTC Ruling

In a Decision[59] dated November 23, 2011, the RTC found Belmonte, Gumba, and Costales guilty beyond reasonable doubt of violating Section 5, Article II, of RA 9165 in Crim. Case Nos. 8979, for illegal sale of marijuana, and sentenced Belmonte and Costales to suffer the penalty of life imprisonment and to pay the fine of P500,000.00 each. Meanwhile, Gumba, who was 17 years old at the time the crime was committed, was sentenced to suffer the penalty of twelve (12) years and one (1) day to twenty (20) years of *reclusion temporal*, and to pay the fine of P300,000.00. A similar sentence was imposed on Gumba in Crim. Case No. 8997 for violating Section 11, Article II, of RA 9165.

The RTC held that all the elements for the prosecution of sale of dangerous drugs, namely: the identity of the buyer and the seller, the object, and consideration, and the delivery of the thing sold, and the payment therefor, were all established.[60] It noted that the witnesses for the prosecution were able to prove that the buy-bust operation took place and the marijuana subject of the sale was brought and duly presented in court, with the poseur-buyer, Ominga, positively identifying Belmonte, Gumba, and Costales as the sellers of the dangerous drug.[61] The RTC further noted the categorical, consistent, and straightforward narration of the prosecution's witnesses of the circumstances leading to the consummation of the sale and the arrest of all the accused which, according to the RTC, was more credible than the defenses of alibi and frame-up which can be concocted easily.[62] Conspiracy among the accused was also evident as Belmonte even asked if Ominga and her team were the buyers, while Gumba handed them the bundle of marijuana leaves and Costales took the marked money.[63] These, according to the RTC, showed their common interest and purpose.

Aggrieved, Belmonte, Gumba, and Costales elevated their conviction to the CA,[64] arguing that the chain of custody of the seized items was not established because the markings and inventory were done in San Gabriel, La Union, while the signing of the Certificate of Inventory[65] by the representatives from the Department of Justice (DOJ) and the media took place in Carlatan, San Fernando City, La Union.

The CA Ruling

In a Decision[66] dated June 30, 2015, the CA affirmed the RTC ruling,[67] finding that the prosecution successfully established the continuous chain of custody of the confiscated marijuana which preserved the identity, integrity, and evidentiary value of the illicit items.[68]

The CA held that the subsequent signing of the Certificate of Inventory undertaken after the arrest of the accused at a different place is not fatal to the case since the prosecution was able to show the continuous whereabouts of the exhibits between the time it came into their possession and until it was tested in the PDEA laboratory.[69] Citing the rule that the crime can still be proven notwithstanding the failure to strictly follow the procedure laid out in Section 21 of RA 9165, the CA ruled that the prosecution was able to satisfactorily show the whereabouts of the exhibits, from the time they came into the possession of the police officer and were tested in the laboratory, up to the time they were offered in evidence.[70] It further held that the accused failed to demonstrate by clear and convincing evidence that they were somewhere else when the buy-bust operation was conducted and that it was physically impossible for them to be present at the scene of the crime before, during, or after it was committed.[71]

Undaunted, Belmonte moved for reconsideration[72] which was, however, denied by the CA in a Resolution[73] dated March 14, 2016; hence the instant petition.

The Issue Before the Court

The issue for the Court's resolution is whether or not Belmonte's conviction for illegal sale of dangerous drugs, defined and penalized under Section 5, Article II of RA 9165, should be upheld.

The Court's Ruling

The appeal has no merit.

In order to secure the conviction of an accused charged with illegal sale of dangerous drugs, the prosecution must prove the: (*a*) identity of the buyer and the seller, the object, and the consideration; and (*b*) delivery of the thing sold and the payment.[74]

In this relation, it is essential that the identity of the prohibited drug be established beyond reasonable doubt. In order to obviate any unnecessary doubts on the identity of the dangerous drugs, the prosecution has to show an unbroken chain of custody over the same. It must be able to account for each link in the chain of custody over the dangerous drug from the moment of seizure up to its presentation in court as evidence of the *corpus delicti.*[75]

Section 21, Article II of RA 9165 provides the chain of custody rule, outlining the procedure police officers must follow in handling the seized drugs, in order to preserve their integrity and evidentiary value.[76] Under the said section, the apprehending team shall, **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, his representative or counsel, a representative from the media and the Department of Justice,**