

THIRD DIVISION

[G.R. No. 179757, September 13, 2017]

**LEONARDO P. CASONA, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENTS.**

DECISION

BERSAMIN, J.:

Too much reliance on the presumption of regularity in the performance of official duties on the part of the arresting officers in the prosecution of drug-related offenses is unwarranted if the records show noncompliance with the affirmative safeguards prescribed to preserve the chain of custody of the contraband. The presumption of regularity applies only when there is no showing of non-compliance.

The Case

The petitioner appeals the decision promulgated on March 30, 2007 in C.A.-G.R. CR No. 29905,^[1] whereby the Court of Appeals (CA) affirmed the decision rendered on August 29, 2005 by the Regional Trial Court (RTC), Branch 214, in Mandaluyong City convicting him of a violation of Section 11, Article II of Republic Act No. 9165 (*Comprehensive Dangerous Drugs Act of 2002*).^[2]

Antecedents

The Office of the City Prosecutor of Mandaluyong City charged the petitioner with illegal possession of *shabu* in violation of Section 11 of the *Comprehensive Dangerous Drugs Act of 2002*, alleging in the information as follows:

That on or about the 6th day of February 2004, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized to possess or otherwise use any dangerous drug, did, then and there willfully, unlawfully, and feloniously and knowingly have in his possession, custody and control two (2) heat-sealed transparent plastic sachets each containing 0.03 and 0.02 grams of white crystalline substance, which was found positive to the test for Methamphetamine Hydrochloride, commonly known as 'shabu' a dangerous drug, without corresponding license and prescription.

Contrary to law.^[3]

The CA adopted the summary of the evidence of the State as presented by the Office of the Solicitor General (OSG) in the *appellee's brief*, to wit:

On February 6, 2004, at 7:20 in the morning, the drug enforcement unit of the Mandaluyong City Police Station received a telephone call from a concerned citizen regarding an illegal drug activity in Barangay Poblacion, particularly in Paraiso Street. On the basis of said information, PO2 Oliver Yumul, the officer-in-charge of the said unit, called a meeting to conduct a surveillance operation in the said area.

Immediately after coordinating with the Philippine Drug Enforcement Agency (PDEA), a team, composed of PO1 Gomez, PO1 Alfaro, PO1 Saupi, PO1 Madlangbayan, POS Adriano and their team leader, proceeded to the area.

Upon arrival thereat, PO1 Gomez and PO1 Alfaro stay (sic) inside the van while the rest of the group namely: PO1 Madalangbayan (sic), POS Adriano, PO1 Saupi and their team leader went off. While walking in their civilian clothes, they saw two (2) male persons in the middle of Paraiso street exchanging something. PO1 Madalangbayan (sic), who was only an arm's length away from the two (2) suspects, saw one of them place a small plastic sachet in between his two (2) fingers and then hand it to the other. The person to whom the plastic sachet was handed turned out to be the appellant.

Immediately, the group approached appellant and his companion and introduced themselves as police officers. At that instance, appellant's companion ran away. The other police officers chased him but he escaped. Appellant, on the other hand, was prevented from fleeing by PO1 Madlangbayan who arrested him. Upon arrest, PO1 Madlangbayan noticed that appellant was holding a plastic sachet in his hand. After discovering that it contained suspected shabu, he ordered him to pull out the contents of his pocket. Consequently, PO1 Madlangbayan recovered another plastic sachet from appellant containing white crystalline substance.

PO1 Madlangbayan informed appellant of his constitutional rights and brought him to the Mandaluyong City Police Station for investigation. The plastic sachets recovered from appellant were submitted to the SOCO for chemical analysis which, after examination, yielded positive for the presence of methamphetamine hydrochloride, otherwise known as "shabu."^[4] (Citations omitted)

On the other hand, the petitioner vigorously denied the accusation. He insisted during the trial that he was on his way to the off-track betting station at around 7:20 pm on February 6, 2004 when he encountered police operatives from the Anti-Illegal Drugs Unit along Paraiso Street in Mandaluyong City who mentioned to him that they would be conducting a raid; that on his way back from the betting station he again encountered the same police operatives but this time they arrested him for allegedly selling *shabu*; that he resisted the arrest because he was surprised by their conduct, but to no avail; and that they brought him with them to the hospital before taking him to their office, where he was investigated and eventually detained.^[5]

Ruling of the RTC

On August 29, 2005, the RTC declared the petitioner guilty beyond reasonable doubt of the charge, to wit:

WHEREFORE, the prosecution having successfully established the guilt of the accused beyond reasonable doubt, he is hereby sentenced to suffer the penalty of imprisonment of TWELVE (12) YEARS AND ONE (1) DAY and to pay a fine of P300,000.00.

Accused is credited in full of the preventive imprisonment he has served in confinement.

Let the physical evidence subject matter of this case be confiscated and forfeited in favor of the State and referred to the PDEA for proper disposition.

SO ORDERED.^[6]

Decision of the CA

On appeal, the CA affirmed the conviction, disposing:

In sum, we find no cogent reason to alter the findings of the trial court, and no ground to question its conclusions.

WHEREFORE, finding no reversible error committed by the trial court, the appealed Decision of the Regional Trial Court, Branch 214, Mandaluyong City in Criminal Case No. MC-04-7897-D, finding appellant Laonardo Casono (sic) y Perez guilty beyond reasonable doubt of the crime of Violation of Section 11, Article [II] of Republic Act 9165, the appeal is *hereby* **AFFIRMED IN TOTO**.

SO ORDERED.^[7]

The CA accorded more weight to the testimonies of the police officers based on the presumption of regularity in the performance of official duties and for lack of showing of any improper motive on their part to falsely testify against the petitioner. Also, it observed that the arresting police officers properly preserved the integrity of the dangerous drug.

Issue

The petitioner now seeks the reversal of the decision of the CA, and raises the sole issue of:

WHETHER THE COURT OF APPEALS GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED DESPITE PATENT WEAKNESS OF THE PROSECUTION EVIDENCE.^[8]

The petitioner submits that the testimony of PO1 Madlangbayan was not worthy of belief; that the police officers had no probable cause to apprehend him because they had acted only on the basis of information from an unnamed concerned citizen; and

that the CA erred in finding that the chain of custody was preserved by the arresting officers.

The OSG counters that the submissions of the petitioner involved purely questions of fact that were beyond the ambit of the appeal of this nature; that the CA correctly found him guilty beyond reasonable doubt of the offense charged based on the testimony of PO1 Madlangbayan showing the presence of all the elements of the offense; and that the integrity and evidentiary value of the seized articles were preserved.

Ruling of the Court

The appeal is meritorious.

Every conviction for a crime should only be handed down after proof beyond reasonable doubt of the guilt of the accused for the crime charged has been adduced. "Proof beyond reasonable doubt does not mean such a degree of proof as, excluding possibility of error, produces absolute certainty. Moral certainty only is required, or that degree of proof which produces conviction in an unprejudiced mind."^[9]

Such degree of proof fell short herein; hence, the Court sees it fit to acquit the petitioner.

First of all, it is wrong for the OSG to vigorously insist that this appeal by petition for review on *certiorari* could not be the occasion for the petitioner to argue in his favor that the CA erred in its appreciation and evaluation of the facts. Such insistence, though generally true, is not controlling in an appeal of a criminal conviction that opens the entire records of the trial to review. This can only mean that the Court is not to be limited to reviewing questions of law. As a consequence, the Court, in the course of its review, may also examine any error even if not assigned by the accused.

Secondly, the Court cannot ignore the very palpable permissiveness on the part of the RTC as the trial court and of the CA as the intermediate appellate court in enforcing the statutory safeguards put in place by no less than Congress in order to ensure the integrity of the evidence to be presented against a violator of the *Comprehensive Dangerous Drugs Act of 2002*. Such permissiveness was contrary to the letter and spirit of the law, and should be rebuffed by not letting the unworthy conviction stand. This, because the State and its agents must be the first to comply with the safeguards; there would be lawlessness among the enforcers of the law otherwise.

There is no question that the *Comprehensive Dangerous Drugs Act of 2002* was enacted to revise the approaches in law enforcement involving drug-related offenses. The legislators then believed that the predecessor enactment, Republic Act No. 6425, as amended, did not include needed safeguards against evidence tampering or substitution. Among the new approaches was the incorporation of affirmative safeguards to deny wayward law enforcers apprehending violators any opportunity for tampering with the confiscated evidence, and to ensure the preservation of the integrity of the evidence from the moment of seizure until the ultimate disposal thereof upon order of the trial court. This approach was a true

recognition of the value as evidence of guilt of the seized illegal substances themselves - which are no less the *corpus delicti* in the drug-related offenses of illegal sale and illegal possession so essential to the conviction and incarceration of the offenders.

Inasmuch as the dangerous drug itself constitutes the *corpus delicti* of the offense charged, its identity and integrity must be shown by the State to have been preserved. On top of the elements for proving the offense of illegal possession, therefore, is that the substance possessed is the very substance presented in court. The State must establish this element with the same exacting degree of certitude as that required for ultimately handing down a criminal conviction.^[10] To achieve this degree of certitude, the Prosecution has to account for all the links in the chain of custody of the dangerous drug, from the moment of seizure from the accused until it is presented in court as proof of the *corpus delicti*. The process, though tedious, must be undergone, for the end is always worthwhile - the preservation of the chain of custody that will prevent unnecessary doubts about the identity of the evidence.

In particular, the *Comprehensive Dangerous Drugs Act of 2002* has incorporated affirmative safeguards that the apprehending officers should faithfully comply with in their seizure and custody of dangerous drugs, viz.:

Section 21. *Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment.* - The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(1) The apprehending team having initial custody and control of drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her 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 thereof;

x x x x

Complementing this provision is Section 21(a) of Article II of the Implementing Rules and Regulations (IRR) of R.A. No. 9165, to wit:

x x x x

(a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall