

SECOND DIVISION

[G.R. No. 225500, September 11, 2017]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. JONAS GERONIMO Y PINLAC, ACCUSED-APPELLANT.

DECISION

PERLAS-BERNABE, J.:

Before the Court is an ordinary appeal^[1] filed by accused-appellant Jonas Geronimo y Pinlac (Geronimo) assailing the Decision^[2] dated December 18, 2014 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 06405, which affirmed the Joint Decision^[3] dated October 7, 2013 of the Regional Trial Court of Caloocan City, Branch 127 (RTC) in Crim. Case Nos. C-83928 and C-83929, finding him 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

The instant case stemmed from two (2) Informations^[5] filed before the RTC accusing Geronimo of the crimes of illegal sale and illegal possession of dangerous drugs, the accusatory portions of which state:

Criminal Case No. C-83928

"That on or about the 12th day of April, 2010 in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there willfully, unlawfully and feloniously sell and deliver to 101 Crisanto L. Lorilla, a [bona fide] member of the Philippine Drug Enforcement Agency, who posed as poseur buyer, METHYLAMPHETAMINE HYDROCHLORIDE (Shabu) and MEFENOREX, dangerous drugs, weighing 0.1076 gram, without the corresponding license or prescription therefore, knowing the same to be such.

Contrary To Law."^[6]

Criminal Case No. C-83929

"That on or about the 12th day of April, 2010 in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there willfully, unlawfully and feloniously have in his possession, custody and control One (1) self-sealing transparent plastic bag with marking EXH B 04-12-10 CLL containing dried MARIJUANA leaves and fruiting tops weighing 4.1283 grams, which when subjected for laboratory

examination gave POSITIVE result to the tests for Marijuana, a dangerous drugs [sic], in gross violation of the above-cited law.

Contrary To Law."^[7]

The prosecution alleged that at around ten (10) o'clock in the morning of April 12, 2010, a tip was received from a confidential informant that Geronimo was peddling illegal drugs in Caloocan City. Acting on the said tip, Intelligence Agent 1 Joshua V. Arquero (IA1 Arquero) immediately organized a buy-bust operation, which was coordinated with the Philippine Drug Enforcement Agency (PDEA) Regional Office and the Philippine National Police (PNP). IA1 Arquero then instructed the informant to order P500.00 worth of *shabu* from Geronimo.^[8] At around nine (9) o'clock in the evening, the buy-bust team composed of IA1 Arquero, Intelligence Officer (IO) 1 Crisanto Lorilla (IO1 Lorilla), IO 2 Lorenzo Advincula (IO2 Advincula),^[9] a certain IO1 Camayang, and one IO1 Mellion reached the target area in Narra Street, Barangay 171, Caloocan City and conducted a quick surveillance thereof. Moments later, Geronimo arrived, took out from his right pocket a transparent plastic sachet containing a suspected shabu, and handed it over to the poseur-buyer, IO1 Lorilla, who, in turn, paid him with the buy-bust money.^[10] Shortly after, IO1 Lorilla lit a cigarette to signal the rest of the team that the transaction was completed, prompting IO2 Advincula to rush towards the scene to arrest Geronimo. Subsequently, IO1 Lorilla and IO2 Advincula frisked Geronimo's pockets. IO1 Lorilla recovered the buy-bust money, while IO2 Advincula recovered the marijuana leaves wrapped in a newspaper and gave them to the former. The team proceeded to the headquarters in Quezon City, and the confiscated items were supposedly marked, photographed, and inventoried by IO1 Lorilla in the presence of Geronimo and Barangay *Kagawad* Jose Y. Ruiz.^[11] After conducting the inventory, IO1 Lorilla secured the letter-request for laboratory examination from IO1 Jay son R. Albao and delivered the specimens to the PNP Crime Laboratory for testing. Consequently, the specimens were received and examined by Forensic Chemist Jappeth M. Santiago, who later on revealed that the substance found in the plastic sachet tested positive for the presence of *methamphetamine hydrochloride* and *mefenorex*, while the other wrapped specimen tested positive for the presence of marijuana, all dangerous drugs.^[12]

For his part, Geronimo interposed the defenses of denial and frame-up, maintaining that at the time of the incident, he was drinking at the house of his friend Julian Faura, Jr. (Faura) when three (3) unidentified armed men suddenly arrived and forced him to board a white Toyota Revo. There, he noticed that his girlfriend Elaine Cabral (Cabral), whom he recently had an argument with, was inside the vehicle as well. According to Geronimo, Cabral suddenly slapped him, while the other men repeatedly hit him. Geronimo claimed that he was then brought to the PDEA office, where he was forced to drink something and urinate in a small bottle. Subsequently, the police officers allegedly brought out several plastic sachets, placed them on the table, and instructed Geronimo to stand before it while they took pictures of the same. During trial, Geronimo pleaded not guilty to the crimes charged and presented Faura as his witness.^[13]

The RTC Ruling

In a Joint Decision^[14] dated October 7, 2013, the RTC found Geronimo guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of RA 9165 and,

accordingly, sentenced him as follows: (a) in Crim. Case No. C-83928, to suffer the penalty of life imprisonment and to pay a fine of P500,000.00; and (b) in Crim. Case No. C-83929, to suffer the penalty of imprisonment of twelve (12) years and one (1) day, as minimum, to seventeen (17) years and eight (8) months, as maximum, and to pay a fine of P300,000.00.^[15] It held that all the essential elements of the crimes of illegal sale and illegal possession of dangerous drugs were duly proven. On the other hand, Geronimo's defenses of denial and frame-up failed to create reasonable doubt in view of his positive identification as the culprit, as well as the presumption of regularity accorded to police officers in the discharge of their duties.^[16]

Moreover, the RTC declared that the integrity and evidentiary value of the seized drugs were shown to have been preserved from the time of seizure to receipt by the forensic chemist up to presentation in court. It added that the requisite marking of seized items immediately upon their confiscation at the place of arrest is not absolute and can thus be done at the nearest police station or office of the apprehending team, given that there is no exact definition of the phrase "immediately upon confiscation in Philippine Jurisprudence."^[17]

Aggrieved, Geronimo elevated his conviction to the Court of Appeals (CA).^[18]

The CA Ruling

In a Decision^[19] dated December 18, 2014, the CA affirmed *in toto* the ruling of the RTC,^[20] finding that all the necessary elements of the crimes charged have been adequately proven. Moreover, Geronimo failed to prove that the evidence was tampered or meddled with, and that the police officers improperly performed their duties; and on the contrary, it was shown that the integrity and evidentiary value of the seized drugs were preserved.^[21]

Hence, this appeal.

The Issue Before the Court

The issue for the Court's resolution is whether or not Geronimo's conviction for illegal sale and illegal possession of dangerous drugs, as respectively defined and penalized under Sections 5 and 11, Article II of RA 9165, should be upheld.

The Court's Ruling

At the outset, 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.^[22] "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."^[23]

In this case, Geronimo 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. For the successful prosecution of unauthorized sale of dangerous drugs, it is necessary that the essential elements thereof are proven beyond reasonable doubt, to wit: (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.^[24] On the other hand, in cases 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.^[25]

In both cases, it is essential that the identity of the prohibited drug be established with moral certainty. Thus, 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*.^[26]

Relatedly, Section 21, Article II of RA 9165 provides the chain of custody rule, outlining the procedure that police officers must follow in handling the seized drugs, in order to preserve their integrity and evidentiary value.^[27] Under the said section, 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, 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 24 hours from confiscation for examination.^[28] In the case of *People v. Mendoza*,^[29] the Court stressed that "**[w]ithout the insulating presence of the representative from the media or the Department of Justice, 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 No. 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."^[30]

The Court, however, clarified that under varied field conditions, strict compliance with the requirements of Section 21 of RA 9165 may not always be possible.^[31] In fact, the Implementing Rules and Regulations (IRR) of RA 9165 - which is now crystallized into statutory law with the passage of RA 10640^[32] - 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 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.**^[33] In other words, the failure of the apprehending team to strictly comply with the procedure laid out in Section 21 of RA 9165 and its IRR does not *ipso facto* render the seizure and custody over the items 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.^[34] In *People v. Almorfe*,^[35] **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 value of the seized evidence had nonetheless been preserved.^[36] Also, in *People v. De Guzman*,^[37] 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.**^[38]

In his Brief,^[39] Geronimo prayed for his acquittal in light of the police officers' non-compliance with Section 21 of RA 9165 and its IRR and their failure to proffer a plausible explanation therefor.^[40] In particular, he claims that the inventory and certification was neither done in the presence of nor signed by a representative from the DOJ and the media.^[41]

The appeal is meritorious.

An examination of the records reveals that although the requisite inventory and photography of the seized items were conducted in the presence of Geronimo and an elected public official, the same was not done in the presence of the representatives from the DOJ and the media. In an attempt to justify such absence, IA1 Arquero testified that:

ATTY QUILAS:

Q: You said you are a team leader and you knew for a fact the requirements that in the subsequent inventory, an elected official, a representative from the Media, a representative from the Department of Justice, you know for a fact that they are required, is not that correct?

[IA1 ARQUERO]:

A: In Section 21 of RA 9165 that is a requirement and prior to that operation is a buy-bust operation. So, in the buy-bust operation we don't need to comply with the requirements, we don't need to call the Media Representative, an elected official and a Representative from the D.O.J. unless there is a search warrant were taken briefly to go with the apprehending officers in entering the house. In the buy-bust operation we don't do that, sir.

x x x x (Underscoring supplied)^[42]

Based on the foregoing testimony, the justification given by IA1 Arquero was grossly insufficient and without legal basis. It appears that he clearly misunderstood the law and its application in buy-bust operations. The law mandates the apprehending team to follow the prescribed procedure under Section 21 of RA 9165 mainly to ensure the proper chain of custody and avoid the possibility of switching, planting, or contamination of evidence. There is nothing in the law which exempts the apprehending officers from securing the presence of an elected public official and a representative from the DOJ or media, particularly in instances when they are not equipped with a search warrant as claimed by IA1 Arquero. In fact, RA 9165 and its IRR explicitly provide that non-compliance with the required procedure can only be allowed under exceptional circumstances, provided that justifiable grounds are given and proven as a fact therefor by the apprehending officers, which IA1 Arquero likewise failed to show in this case.