

SECOND DIVISION

[G.R. No. 223556, October 09, 2017]

PEOPLE OF THE PHILIPPINES PLAINTIFF-APPELLEE, VS. MANUEL LIM CHING, ACCUSED-APPELLANT.

DECISION

PERLAS-BERNABE, J.:

Assailed in this ordinary appeal^[1] is the Decision^[2] dated June 30, 2015 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 01724, which affirmed the Decision^[3] dated June 17, 2013 of the Regional Trial Court of Catarman, Northern Samar, Branch 19 (RTC) in Criminal Case Nos. C-3522, C-3523, and C-3533 finding accused-appellant Manuel Lim Ching (Ching) guilty beyond reasonable doubt of violating Sections 11, 12, and 5 of Republic Act (RA) No. 9165,^[4] otherwise known as the "Comprehensive Dangerous Drugs Act of 2002," respectively.

The Facts

This case stemmed from four (4) Informations filed before the RTC charging Ching of violating Sections 11, 12, 5, and 6, Article II of RA 9165, the accusatory portions of which respectively read:

Criminal Case No. C-3522

That on or about the 29th of June 2003, at about 4:00 o'clock in the afternoon, more or less, in Purok 4, Barangay Jose Abad Santos, Municipality of Catarman, Province of Northern Samar, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent to violate the said provision of the law, did then and there, [willfully], unlawfully, and feloniously have in his possession, custody and control the following items, to wit[:]

1. One (1) sachet of "shabu" with estimated weight of (0.2) grams worth P300.00
2. One (1) sachet of "shabu" with an estimated weight of (0.2) grams worth P500.00
3. Five (5) sachets of "shabu" with an estimated weight of (5.3) grams

of methamphetamine hydrochloride popularly known as "shabu" a regulated drug without first securing the necessary permit or license to possess the same from competent authority which therefore is an open violation of Section 11, Article II of Republic Act No. 9165, in particular Possession of Dangerous Drugs.

CONTRARY TO LAW.^[5]

Criminal Case No. C-3523

That on or about the 29th day of June 2003, at about 4:00 o'clock in the afternoon more or less, in Purok 4, Barangay Jose Abad Santos, Municipality of Catarman, Province of Northern Samar, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent to violate the said provisions of the law, did then and there, [willfully], unlawfully, [and] feloniously have in his possession, custody and control the following drug paraphernalia, to wit:

- 1.) Twenty three (23) pcs. of aluminum foils;
- 2.) Six (6) pcs. improvised aluminum tooters;
- 3.) One (1) pc. plastic tooter;
- 4.) One (1) pc. alcohol lamp;
- 5.) One (1) pc. plastic case color blue;
- 6.) Seven (7) pcs. disposable lighters;
- 7.) One (1) pc. scissor;
- 8.) Two (2) pcs. cutter blade;

without first securing the necessary permit or license to possess the dangerous drugs' Paraphernalia, Tools and instruments the same from competent authority which therefore is an open violation of Section 12, Article II of Republic Act No. 9165.

CONTRARY TO LAW.^[6]

Criminal Case No. C-3533

That on or about the 29th day of June, 2003 at about 4:00 o'clock in the afternoon, at Purok 4, Barangay Jose Abad Santos, Municipality of Catarman, Province of Northern Samar, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent to violate the above provisions of the law, did then and there, [willfully], unlawfully and feloniously sold to police poseur-buyer PO1 Mauro Ubaldo Lim one (1) sachet of methamphetamine hydrochloride popularly known as "shabu" a regulated drug weighing 0.2 gram valued at Three Hundred (P300.00) Pesos and other sachet of the same substance weighing 0.2 gram valued at Five Hundred (P500.00) Pesos to a total of Eight Hundred (P800.00) Pesos, Philippine Currency without first securing the necessary permit or license from any competent authority to do the same.

CONTRARY TO LAW.^[7]

Criminal Case No. C-3524

That on or about the 29th day of June, 2003, at about 4:00 o'clock in the afternoon more or less, in Purok 4, Barangay Jose Abad Santos, Municipality of Catarman, Province of Northern Samar Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent to violate the said provision of the law, did then and there, intentionally, unlawfully and feloniously maintain and keep a drug den in his residence where methamphetamine hydrochloride popularly known as "shabu" are stored, distributed, traded and used by his visitors and where drug paraphernalia/tools/instruments are kept without first securing the necessary permit or license to maintain and sell the same from competent authority which therefore is an open violation of Section 6, Article II of Republic Act No. 9165 or Maintenance of a Drug Den.

CONTRARY TO LAW.^[8]

The prosecution alleged that on June 29, 2003, and after the conduct of surveillance on the suspected illegal drug activities of Ching, as well as a test-buy wherein a civilian asset purchased one (1) sachet of suspected *shabu* worth P300.00, Police Superintendent Isaias B. Tonog (P/Supt. Tonog), formed a buy-bust team composed of, among others, Police Officer 1 Mauro Ubaldo Lim (PO1 Lim), the designated poseur-buyer, with the rest of the members serving as backup officers.^[9] At around four (4) o'clock in the afternoon of even date, the team proceeded to Ching's house located at Purok 4, Barangay Jose Abad Santos, Catarman, Northern Samar and upon arrival thereat, PO1 Lim approached Ching and bought a sachet of suspected *shabu* worth P500.00, handing as payment the marked money. As soon as PO1 Lim received the sachet, he gave the pre-arranged signal and the other team members, who were stationed more or less 15-20 meters from the target area, approached, causing Ching to run and hide in his room. The team followed Ching inside his house where he was eventually arrested for selling *shabu*.^[10] A subsequent search of the premises produced the following: two (2) sachets in a chicken cage outside the house, two (2) sachets on the wooden frames nailed to a wall inside the house, and one (1) sachet found in a pail outside the house. Similarly, the following drug paraphernalia were recovered in an adjacent makeshift structure outside the house: twenty-three (23) pieces of aluminum foil, six (6) pieces of improvised tooters, one (1) piece of plastic tooter, seven (7) pieces of disposable lighters, one (1) pair of scissors, two (2) pieces of cutter blade, one (1) piece of alcohol lamp and one (1) piece of color blue plastic case.^[11] The sachets of *shabu* were sealed and labeled "MLC-1 to MLC-9" after which, they were brought to the Northern Samar Police Provincial Office, Camp Carlos Delgado,^[12] where P/Supt. Tonog signed four (4) Receipts for Property Seized^[13] as witnessed by barangay officials Benito Calindong, Leon Rosales, and Felipe Aurel.^[14]

Days after, at around 10:35 in the morning of **July 9, 2003**, P/Supt. Tonog delivered the drug specimens to the Philippine Drug Enforcement Agency (PDEA) office in Tacloban where it was received and acknowledged by a certain Police Officer

3 Bernardo Bautista (PO3 Bautista),^[15] who, in turn, turned over the items on the same day to the Philippine National Police (PNP) Regional Crime Laboratory Office 8 and were received by Forensic Chemist Police Senior Inspector Benjamin Aguirre Cruto, Jr. (P/Sr. Insp. Cruto) for examination.^[16] In Chemistry Report No. D-300-2003,^[17] P/Sr. Insp. Cruto confirmed that the substance inside eight (8) out of the nine (9) sachets (marked as MLC-1 through MLC-6, MLC-8 and MLC-9) were positive for methylamphetamine hydrochloride or *shabu*, an illegal drug.^[18]

Upon arraignment, Ching pleaded not guilty^[19] and proceeded to deny the charges leveled against him. He claimed that on said date, he was in his house with his nephews and was about to leave when policemen, including P/Supt. Tonog, together with some barangay officials, arrived and roamed around his residence. He later saw one of the men insert a plastic inside the chicken cage and thereafter, gathered some things and placed them on top of a table. Not long after, a *pedicab* arrived and he was brought to the police station and detained. Ching further claimed that he was veclose with P/Supt. Tonog, but the latter bore personal grudges against him.^[20]

The RTC Ruling

In a Decision^[21] dated June 17, 2013, the RTC ruled as follows: (a) in Criminal Case No. C-3522, Ching was found guilty beyond reasonable doubt of illegal possession of *shabu* under Section 11 of RA 9165 and, accordingly, sentenced to suffer the penalty of imprisonment for a period of twelve (12) years and one (1) day to twenty (20) years, and to pay a fine in the amount of P100,000.00;^[22] (b) in Criminal Case No. C-3523, Ching was found guilty beyond reasonable doubt of illegal possession of drug paraphernalia under Section 12 of RA 9165 and, accordingly, sentenced to suffer the penalty of imprisonment for a period of six (6) months and one (1) day to four (4) years, and to pay a fine of P10,000.00;^[23] (c) in Criminal Case No. C-3533, Ching was found guilty beyond reasonable doubt of illegal sale of *shabu* under Section 5 of RA 9165 and, accordingly, sentenced to suffer the penalty of life imprisonment, and to pay a fine in the amount of P500,000;^[24] and (d) in Criminal Case No. C-3524, Ching was acquitted on reasonable doubt.^[25]

The RTC found all the elements for the prosecution of illegal possession of dangerous drugs present as drugs were found within the premises of Ching's residence, *i.e.*, in the chicken cage, the wooden frames inside the house, and in a pail outside the house.^[26] Moreover, the prosecution was able to show that the drug paraphernalia confiscated from the premises of Ching's residence were used in smoking, consuming, administering, ingesting or introducing dangerous drugs into the body.^[27] Likewise, all the elements for the illegal sale of dangerous drugs were proven, noting that the sale of the *shabu* was consummated and Ching was positively identified as the seller.^[28]

Aggrieved, Ching elevated his conviction before the CA.^[29]

The CA Ruling

In a Decision^[30] dated June 30, 2015, the CA upheld the RTC ruling, holding that all

the elements of the crimes for which Ching was convicted were present. More importantly, it ruled that the apprehending officers duly complied with the chain of custody rule and the mandatory requirements under Section 21 (a), Article II of the Implementing Rules and Regulations (IRR) of RA 9165, as P/Supt. Tonog narrated in detail the conduct of the buy-bust operation and the due diligence he exercised to ensure that the very same confiscated sachets of *shabu* were the ones submitted to the PDEA for examination and eventually presented in court.^[31] The CA did not give credence to Ching's defenses of denial and frame-up, absent any ill-motive on the part of the police officers.^[32]

The Issue Before the Court

The issue for the Court's resolution is whether or not Ching is guilty beyond reasonable doubt of violating Sections 11, 12, and 5, Article II of RA 9165.

The Court's Ruling

Preliminarily, it must be stressed that an appeal in criminal cases opens the entire case for review, and it is the duty of the reviewing tribunal to correct, cite, and appreciate errors in the appealed judgment whether they are assigned or unassigned. The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine the records anew and revise the judgment appealed from, among others.^[33]

In this case, Ching was charged with illegal possession of dangerous drugs, illegal possession of drug paraphernalia, and illegal sale of dangerous drugs, respectively defined and penalized under Sections 11, 12, and 5, Article II of RA 9165. In order to secure the conviction of an accused charged with illegal possession of dangerous drugs, the prosecution must prove: (a) that the accused was in possession of an item or object identified as a dangerous drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug.^[34] Similarly, a violation of illegal possession of paraphernalia is deemed consummated the moment the accused is found in possession of said articles without the necessary license or prescription.^[35] Finally, the prosecution must establish the following elements to convict an accused charged with illegal sale of dangerous drugs: (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.^[36]

Jurisprudence states that in these cases, it is essential that the identity of the seized drug/paraphernalia be established with moral certainty. Thus, in order to obviate any unnecessary doubts on such identity, 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/paraphernalia from the moment of seizure up to its presentation in court as evidence of the *corpus delicti*.^[37]

Pertinently, 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/paraphernalia, in order to preserve their integrity and evidentiary value.^[38] Under the said section, the apprehending team shall, among others, **immediately after seizure and confiscation conduct a physical inventory and photograph**