

SECOND DIVISION

[G.R. No. 198450, January 11, 2016]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FERNANDO RANCHE HAVANA A.K.A. FERNANDO RANCHE ABANA,
ACCUSED-APPELLANT.**

D E C I S I O N

DEL CASTILLO, J.:

"Statutory rules on preserving the chain of custody of confiscated prohibited drugs and related items are designed to ensure the integrity and reliability of the evidence to be presented against the accused. Their observance is the key to the successful prosecution of illegal possession or. illegal sale of dangerous drugs."^[1]

At issue in this case is whether appellant Fernando Ranche Havana a.k.a. Fernando Ranche Abana did in fact sell or deliver to an alleged poseur-buyer some 0.03 gram of the banned substance Methylamphetamine Hydrochloride, locally known as "shabu" on the late afternoon of November 4, 2005. The appellant insists that he never did. The prosecution asserts the contrary.

On appeal is the May 31, 2010 Decision^[2] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 00688, affirming the February 28, 2007 Decision^[3] of the Regional Trial Court (RTC) of Cebu City, Branch 58 finding Fernando Havana y Ranche a.k.a. Fernando Abana y Ranche (appellant) guilty of violating Section 5, Article II of Republic Act No. 9165 (RA 9165) otherwise known as the Comprehensive Dangerous Drugs Act of 2002 and sentencing him to suffer the penalty of life imprisonment and to pay a fine of P500,000.00.

Factual Antecedents

In an Information^[4] dated November 18, 2005, the appellant was charged with illegal sale of dangerous drugs committed as follows:

That on or about the 4th day of November, 2005, at about 6:30 p.m., in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent and without authority of law, did then and there sell, deliver or give away to a poseur[-]buyer the following:

One (1) heat-sealed transparent plastic packet containing 0.03 gram of white crystalline substance containing Methylamphetamine Hydrochloride, locally known as "SHABU", a dangerous drug.

CONTRARY TO LAW.^[5]

Appellant put in a negative plea. Trial then followed.

The prosecution's case is essentially erected upon the testimonies of PO2 Miguel R. Enriquez^[6] (PO2 Enriquez), SPO1 Rogelio J. Canete, Jr. (SPO1 Cañete), and Police Chief Inspector Mutchit G. Salinas (PCI Salinas), all members of the Philippine National Police (PNP), Police Station 10, Punta Princesa, Cebu City and documentary exhibits pertaining to the buy-bust operation. The combined testimonies and the documentary exhibits tended to establish these facts:

On the afternoon of November 4, 2005, a civilian informant, one "Droga", went to Police Station 10, Punta Princesa, Cebu City and reported to the duty officer SPO1 Vicente R. Espenido, Jr. (SPO1 Espenido) that the appellant was actively engaged in the illegal drug trade at Sitio Mangga, Punta Princesa, Cebu City. SPO1 Espenido immediately assembled a buy-bust team, with him as the team leader, the civilian asset and with PO2 Enriquez, SPO1 Canete, and SPO1 Jasper C. Nuñez (PO2 Nuñez) as back-up. The police team designated the unnamed "civilian informant" as poseur-buyer and provided him with a P100.00 marked money bill, with its serial number (SN003332) noted in the police blotter,^[7] to be used for the purpose of buying *shabu* from appellant. The buy-bust operation was allegedly coordinated with the Office of the Philippine Drug Enforcement Agency (PDEA).^[8] When the police team reached the target area, the "civilian informant" went to the house of appellant and called the latter. Hidden from view, some 15 meters away from the house, the back-up operatives, PO2 Enriquez and SPO1 Canete, saw the civilian informant talking with the appellant. Not long after, they saw the "civilian informant" handing over the marked P100.00 bill to the appellant, who in exchange gave to the former a plastic pack containing 0.03 gram white crystalline substance which these two suspected as *shabu*. The "civilian informant" then placed a face towel on his left shoulder to signal that the sale had been consummated. SPO1 Espenido and his two companions rushed towards the "civilian informant" and the appellant and arrested the latter after apprising him of his constitutional rights. SPO1 Espenido recovered the P100.00 marked money from the appellant while the plastic pack was given by the "civilian informant" to SPO1 Espenido.

The appellant was taken to the police station for investigation. The P100.00 marked money and the plastic pack containing the suspected *shabu* were turned over to SPO2 Nuñez who marked the plastic pack with "FA" the initials of herein appellant. He then prepared a letter requesting for examination^[9] of the item seized from the appellant addressed to the PNP Crime Laboratory. PCI Salinas, a forensic chemist of the PNP Crime Laboratory of Brgy. Apas, Cebu City, testified that he conducted a laboratory examination of the recovered specimen^[10] that yielded "positive result for the presence of methylamphetamine hydrochloride, a dangerous drug."^[11]

The appellant denied that he was a *shabu*-seller; he also denied that he was arrested in a buy-bust operation. He claimed that on that evening of November 4, 2005 he was eating bread when SPO2 Nuñez barged inside his house, handcuffed him and brought him to the police precinct. He claimed that he was mistaken for his neighbor "Narding" the real *shabu*-seller. His daughter, Maria Theresa, corroborated

him.

Ruling of the Regional Trial Court

The RTC found appellant guilty as charged and sentenced him to suffer the penalty of life imprisonment and to pay a fine of P500,000.00.

From this judgment, appellant appealed to the CA. Ruling of the Court of Appeals

On appeal, the CA upheld the RTC ruling. The appellate court held that the non-submission of the pre-operation report to the PDEA did not at all render the buy-bust operation irregular. What it held as important is that the police officers were able to call the PDEA prior to the operation. The CA was convinced that all the elements of the offense charged were established by the prosecution. The CA held that the integrity and evidentiary value of the confiscated item had been preserved, despite the fact that the police officers did not strictly adhere to the procedure outlined in Section 21 of RA 9165 which governs the so-called "buy-bust" operations. It held that the police officers regularly performed their functions. Thus, in its Decision of May 31, 2010, the CA decreed dispositively -

WHEREFORE, premises considered, the Appeal is hereby DISMISSED. The Decision dated February 28, 2007 of the Regional Trial Court (RTC), Branch 58, Cebu City, in Criminal Case No. CBU-75283, is AFFIRMED.

SO ORDERED.^[12]

Aggrieved, appellant is now before us seeking the reversal of his conviction faulting the courts below for convicting him of the crime charged. He questions in his Supplemental Brief: (1) the lack of pre-coordination with the PDEA regarding the buy-bust operation, (2) the non-presentation in court of the unnamed "civilian informant" as poseur-buyer, (3) the non-compliance by the police officers with the prescribed procedure under Section 21, Article II of RA 9165 and lastly, the dubious chain of custody of the subject *shabu*.

The Office of the Solicitor General (OSG) prays for the affirmance of the appealed Decision arguing that the essential elements of the offense charged had been adequately established and that the appellant's bare denial cannot prevail over the positive and straightforward testimonies of the police operatives who are presumed to have performed their duties regularly.

Our Ruling

The appeal is well-taken.

Prefatorily, we stress again that generally, the trial court's findings of fact, especially when affirmed by the CA, are entitled to great weight, and will not be disturbed on appeal.^[13] Even as this Court must defer to this salutary rule, it must likewise pay homage to a higher duty which is to dispense real, conscientious and honest-to-goodness justice by conducting a thorough examination of the entire records of the case based on the settled principle that an appeal in a criminal case opens the whole

case for review on all questions including those riot raised by the parties.^[14]

The appellant contends that the belated submission of the pre-operation report to the PDEA after the buy-bust operation violates RA 9165; and that non-presentation of the unnamed "civilian informant" who allegedly brokered the transaction with him casts serious doubts on the factuality of the buy-bust operation.^[15]

There is no merit in this contention.

We held in *People v. Abedin*^[16] that coordination with the PDEA is not an indispensable requirement before police authorities may carry out a buy-bust operation; that in fact, even the absence of coordination with the PDEA will not invalidate a buy-bust operation.^[17] Neither is the presentation of the informant indispensable to the success in prosecuting drug-related cases.^[18] Informers are almost always never presented in court because of the need to preserve their invaluable service to the police. Unless their testimony is absolutely essential to the conviction of the accused, their testimony may be dispensed with since their narrations would be merely corroborative to the testimonies of the buy-bust team.

Adherence to the chain of custody rule not established.

In this ultimate recourse, appellant focuses his principal argument on the alleged failure of the prosecution to establish a continuous and unbroken chain of custody of the seized illegal drug and the lack of integrity of the evidence in view of the police officers' non-compliance with Section 21, Article II of RA 9165.

"In a prosecution for illegal sale of dangerous drugs, the following elements must be duly established: (1) proof that the transaction or sale took place; and (2) the presentation in court of the *corpus delicti* or the illicit drug as evidence."^[19] The dangerous drug itself constitutes the very *corpus delicti* of the offense and the fact of its existence beyond reasonable doubt plus the fact of its delivery and/or sale are both vital and essential to a judgment of conviction in a criminal case.^[20] And more than just the fact of sale, "[o]f prime importance therefore x x x is that the identity of the dangerous drug be likewise established beyond reasonable doubt. In other words, it must be established with unwavering exactitude that the dangerous drug presented in court as evidence against the accused is the same as that seized from him in the first place. The chain of custody requirement performs this function in that it ensures that unnecessary doubts concerning the identity of the evidence are removed."^[21]

The Dangerous Drugs Board Regulation No. 1, Series of 2002, defines chain of custody as "duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping, to presentation in court for destruction."

As a method of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the