

THIRD DIVISION

[G.R. No. 192075, February 10, 2016]

ROBERTO PALO Y DE GULA,^[1] PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

DECISION

PEREZ, J.:

For this Court's consideration is a Petition for Review on *Certiorari*^[2] under Rule 45 which seeks to reverse and set aside the September 22, 2009 Decision^[3] of the Court of Appeals (CA) in CA-G.R. CR No. 31677. The assailed decision affirmed the July 27, 2007 Decision^[4] of the Regional Trial Court (RTC) of Valenzuela City, Branch 171, in Criminal Case No. 586-V-02, finding Roberto Palo y De Gula (petitioner) guilty beyond reasonable doubt of violation of Section 11, Article II of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

The Antecedent Facts

Petitioner and his co-accused Jesus Daguman y Ramos (Daguman) were charged with violation of Section 11 (illegal possession of dangerous drugs), Article II of R.A. No. 9165 in an Information,^[5] which reads:

"That on or about July 24, 2002 in Valenzuela City and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together and mutually helping one another, without any authority of law, did then and there wil[l]fully, unlawfully and feloniously have in their possession, custody and control 0.03 gram of Methamphetamine Hydrochloride (shabu), knowing the same to be a regulated drug.

Contrary to Law."

The two accused were apprehended by the authorities. After posting their bail bonds, both were ordered released. At the scheduled arraignment on September 23, 2002, only Daguman appeared and pleaded not guilty to the offense charged.^[6] The petitioner's sister, Carolina Geronimo, explained that petitioner's failure to appear in said arraignment was because he was suffering from some kind of mental disorder.^[7] For this reason, the trial court ordered the family of the petitioner that he be brought to the National Center for Mental Health for psychiatric evaluation. The trial court also directed the attending physician to submit a report on the petitioner's mental condition. After receipt of notice that the petitioner was fit for trial, the trial court set his arraignment on March 10, 2003 during which he entered a plea of not guilty.^[8]

Version of the Prosecution

To establish its case, the prosecution presented Police Officer 3 Miguel Capangyarihan (PO3 Capangyarihan). During trial, the testimonies of all other prosecution witnesses namely: Police Officer 1 Ernesto Santos (PO1 Santos), Senior Police Officer 1 Reynaldo Tapar (SPO1 Tapar), Police Officer 2 Miguel Isla (PO2 Isla), and Police Inspector Juanita Sioson (P/Insp. Sioson) were dispensed with upon stipulation by the parties.

PO3 Capangyarihan, a member of the Valenzuela City Police, testified that at around 6:30 in the evening of July 24, 2002, he was walking along a dark alley at Mercado Street, Gen. T. De Leon in Valenzuela City. With him at that time was a boy who was a victim of a stabbing incident and right behind them, was PO1 Santos. While they were walking toward the petitioner's direction, at a distance of about five to seven meters, PO3 Capangyarihan saw the petitioner and Daguman talking to each other. PO3 Capangyarihan also noticed the petitioner holding a plastic sachet in his hand who was then showing it to Daguman. Believing that the plastic sachet contained *shabu*, from the manner by which the petitioner was holding the sachet, PO3 Capangyarihan immediately approached the petitioner, held and recovered from his hand the said plastic sachet. Right there and then, the petitioner was arrested by PO3 Capangyarihan. Daguman was also arrested by PO1 Santos.

PO3 Capangyarihan further testified that the petitioner and Daguman were informed of their constitutional rights and that the two accused, together with the item seized, were brought to the police station where the confiscated item was marked by PO3 Capangyarihan with petitioner's initials "RPD." During his cross-examination, PO3 Capangyarihan disclosed that there is a rampant selling of *shabu* at the place where the two accused were apprehended and that his suspicion was aroused by the petitioner's delicate way of handling the plastic sachet.

PO3 Capangyarihan turned over the petitioner, Daguman and the confiscated item to SPO1 Tapar, the investigator of the case. The parties stipulated that SPO1 Tapar received one (1) heat-sealed transparent plastic sachet with "RPD" marking from PO3 Capangyarihan, which item was marked in evidence as Exhibit "B". SPO1 Tapar prepared the letter-request for the examination of the substance found inside the plastic sachet. Also stipulated was the fact that after SPO1 Tapar's investigation, the seized item (Exhibit "B") and the said letter-request were transmitted by him to PO2 Isla for delivery to the Philippine National Police Crime Laboratory-Northern Police District Crime Laboratory Office (PNPCL-NPDCLO).

The testimony of PO2 Isla was dispensed with as the prosecution and defense agreed that: (1) he received from SPO1 Tapar the seized item marked as Exhibit "B" as well as the corresponding letter-request for laboratory examination; (2) he delivered these two to the PNPCL-NPDCLO; and (3) both the seized item and the letter-request were accepted by P/Insp. Sioson.

Likewise dispensed with was the testimony of P/Insp. Sioson, a forensic chemical officer of the PNPCL-Camp Crame, Quezon City, after the defense acknowledged that her office received one (1) heat-sealed small transparent plastic sachet bearing the marking "RPD" (Exhibit "B") together with the letter-request for laboratory examination. In addition, the defense admitted that the contents of the sachet

tested positive for methylamphetamine hydrochloride, more commonly known as *shabu*. P/Insp. Sioson's examination of the submitted specimen was reduced into writing as embodied in her Chemistry Report No. D-706-02 containing the following entries:

"SPECIMEN SUBMITTED:

A-One (1) heat-sealed transparent plastic sachet with markings "RPD" containing 0.03 gram of white crystalline substance. xxx

PURPOSE OF LABORATORY EXAMINATION:

To determine the presence of prohibited and/or regulated drug. xxx

FINDINGS:

Qualitative examination conducted on the above-stated specimen gave POSITIVE result to the tests for Methylamphetamine hydrochloride, a regulated drug. xxx

CONCLUSION:

Specimen A contains Methylamphetamine hydrochloride, a regulated drug. xxx"^[9]

Lastly, the parties stipulated on the fact that PO1 Santos, also of the Valenzuela City Police Station, arrested Daguman but found no *shabu* in his possession at the time of his arrest.^[10]

Version of the Defense

The defense, on the other hand, presented the petitioner and Daguman as witnesses.

According to the petitioner, he can no longer recall the date and time of his arrest. All the same, the petitioner testified that he and Daguman were just sitting along the road, in front of a house that was raided by PO3 Capangyarihan and PO1 Santos. One or two persons were arrested from the raid. The petitioner averred that when the police officers passed by him and Daguman, they were arrested and frisked but nothing was found in their persons. Nevertheless, the two accused were made to board the police vehicle, brought to the police station and detained thereat. The petitioner insisted that he had never been involved in any drug-related incident prior to his arrest. On cross-examination, he stated that he only complained to his sister of the illegality of his arrest.^[11]

Testifying in his behalf, Daguman denied the accusation against him. He claimed that on the day of the incident, he went to the petitioner's place to play *cara y cruz*. Instead of gambling, Daguman was invited by the petitioner to go somewhere to get *shabu*. Daguman narrated that they rode a jeep and alighted at Mercado Street, Valenzuela City to look for the person from whom the petitioner would buy *shabu*. After the two accused met a certain Joseph, a *shabu* seller, the transaction between the petitioner and the latter started. While the petitioner and Joseph were busily

selecting which plastic sachet had more contents, they caught the attention of the police officers. The police officers approached them and when they were about to be arrested, the petitioner went berserk, challenged the arresting officers to a fistfight and told them that they were only brave as they were armed. Nonetheless, the three were arrested. Daguman confirmed that several plastic sachets were confiscated from Joseph while one (1) small plastic sachet of *shabu* and a P100.00 bill were recovered from the petitioner at the time of their apprehension. On direct and cross-examination, Daguman categorically stated that no *shabu* was taken from him.^[12]

The RTC's Ruling

After trial, judgment was rendered by the RTC convicting the petitioner of the offense charged. The trial court ruled that the prosecution sufficiently established all the elements of illegal possession of dangerous drugs and as the petitioner had been caught *in flagrante delicto*, his warrantless arrest was justified pursuant to Section 5, Rule 113 of the Rules of Court.^[13] The RTC applied the presumption of regularity in the performance of the police officers' duties since no ill motive on their part was shown by the defense. However, the trial court acquitted Daguman for insufficiency of evidence. The dispositive portion of the RTC Decision reads:

WHEREFORE, premises considered, accused **ROBERT[O] PALO y DE GULA** is hereby found **GUILTY** beyond reasonable doubt for violation of *Section 11, Article II of R.A. No. 9165*. Consequently, said accused is hereby ordered to suffer the penalty of imprisonment of **eight years (8) and one (1) day** as minimum to **fourteen (14) years and eight (8) months** as maximum. In addition thereto, the said accused is further ordered to pay a **FINE** of **Three Hundred Thousand Pesos (Php300,000.00)**.

Anent, accused **JESUS DAGUMAN y RAMOS**, for insufficiency of evidence, he is hereby **ACQUITTED** of the offense charged. Accordingly, the bailbond posted by the said accused for his provisional liberty is hereby ordered **RELEASED** from liability.

The Branch Clerk of this Court is hereby directed to turn over to PDEA the drugs used as evidence in this case for proper disposition.

SO ORDERED.^[14]

The CA's Ruling

On appeal, the CA affirmed the prior ruling of the RTC. The CA held that the chain of custody over the seized item was unbroken from the time it was confiscated from the petitioner at the crime scene until the same was brought to the crime laboratory for examination. It added that failure of the police officer to comply strictly with the directives embodied in Section 21, Article II of R.A. No. 9165 is not necessarily fatal to the prosecution's case if justifiable grounds exist and for as long as the integrity and evidentiary value of the seized item has been properly preserved. The appellate court also found the testimony of PO3 Capangyarihan credible and accorded the police officer the presumption of regularity in the performance of his official duty. On the other hand, it completely disregarded the self-serving and uncorroborated denial

by the petitioner.

Thereafter, the petitioner filed his Motion for Reconsideration^[15] of the CA Decision. Finding no merit in the motion, it was denied by the CA through its Resolution^[16] dated April 14, 2010.

The Issues

Hence, this Petition for Review on *Certiorari* raising two issues, namely: (1) whether the Honorable Court of Appeals gravely erred in finding the petitioner guilty beyond reasonable doubt of the crime charged despite the dearth of evidence supporting the prosecution's contention; and (2) whether the Honorable Court of Appeals gravely erred in affirming the decision of the trial court notwithstanding the arresting officers' patent non-compliance with the proper chain of custody of the seized dangerous drugs.

The Court's Ruling

The petition is bereft of merit.

Illegal possession of dangerous drugs is penalized under Section 11, Article II of R.A. No. 9165, to wit:

Section 11. *Possession of Dangerous Drugs.* - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

xxxx

Otherwise, if the quantity involved is less than the foregoing quantities, the penalties shall be graduated as follows:

xxxx

(3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to Four hundred thousand pesos (P400,000.00), if the quantities of dangerous drugs are less than five (5) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or "shabu", or other dangerous drugs such as, but not limited to, MDMA or "ecstasy", PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or less than three hundred (300) grams of marijuana.

To secure a conviction for illegal possession of a dangerous drug, the concurrence of the following elements must be established by the prosecution: (1) the accused is in possession of an item or object, which is identified to be a prohibited or regulated